PROCEEDINGS

OF THE

MADRAS GOVERNMENT

IN THE

POLITICAL DEPARTMENT

FOR THE

MONTH OF NOVEMBER 1909.

Printed by Authority.

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1909.

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POLITICAL DEPARTMENT,

FOR THE MONTH OF NOVEMBER 1909.

Abdul Wahab informed that the orders already communicated to him with reference to his petition to the Government of India praying for nomination for the enrolled list of the Finance department cannot be reconsidered. **November 4, No. 517 (Mis.).**

——— The Paymaster, Carnatic Stipends, directed to inform — that his request for exemption from the examination rules with a view to appointment as a Probationary Attaché in the Revenue department cannot be complied with.
November 25, No. 553 (Mis.).

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October 20, No. 479, Financial (Press, N.P.).

——— See Transport of — (G.O., No. 463, Financial, Press, N.P.).

Budget estimates. Heads of departments directed to observe with more care the instructions contained in paragraph 2 of Memorandum No. 3177–5, Financial, dated 16th September 1909, which require that the cost of new schemes to be entered in the schedules should show not only "Establishment charges" but also fluctuating charges such as "Allowances," "Supplies and services" and "Contingencies".
October 23, Memo. No. 3988, Financial (Press).

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Census of 1911. The Government of India informed of the arrangements made by the Travancore and Cochin Darbars in connection with the Census operations in 1911.
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Ceremonial Programme. The draft programme of the ceremonies to be observed at the formal exchange of visits between His Excellency the Viceroy and the Chiefs of Travancore and Cochin, returned to the Government of India with the blanks filled in.
November 10, Nos. 527–28 (Mis.).

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———See Visit of His Highness the Raja of Cochin (G.O., No. 546, Press).

Channel disputes. See Kavadi—(G.O., No. 535, Mis.).

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———See College at Ernaculam (G.O., No. 552, Mis.).

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Cochin Raja. See Visit of His Highness the Raja of Cochin (G.Os., 541, 548, Mis. and 546, Press.).

Cochin State. See Agricultural Statistics (G.O., No. 515, Mis.).

College at Ernaculam. Letter from the Resident in Travancore and Cochin informing that the Cochin Darbar has remitted Rs. 1,802 on account of scrutiny by the Public Works Department of the estimate for the construction of the hostel building at Ernaculam, recorded.
November 24, No. 552 (Mis.).

Commutation. The — of the stipend of Rs. 6 drawn by Carnatic Stipendiary Said-un-nisa, approved and the payment to her of a bonus of Rs. 445, sanctioned.
November 6, No. 521 (Mis.).

——— The Paymaster, Carnatic Stipends, requested to inform Shahzadi Begam that her request for the — of her stipend cannot be complied with.
November 17, No. 539 (Mis.).

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Consul for Belgium at Madras. Letter from Mr. A. H. Deane, —, stating that he has resumed charge of his office, recorded, and a copy of the letter forwarded to the Government of India. **November 9, Nos. 525-26 (Mis.).**

Consular Agent for France at Tellicherry. Letter from the Government of India intimating that the resumption of charge by Mr. J. C. Fernel of the office of — has been notified in the *Gazette of India*, recorded, and Mr. Fernel informed accordingly.
November 10, Nos. 532-33 (Mis.).

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Delegation of powers. The Accountant-General informed that the exercise of powers to sanction the grant of local and conveyance allowances to officers transferred to Foreign service and the relaxation of the ten years' rule in the case of transfers to local bodies, is limited to the local Government only. **November 15, No. 509, Finl. (Press, N.P.).**

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Estimates of expenditure on stores. See Stores (G.O., No. 435, Finl., Press).

Excise department. See Swords for the Cochin Darbar (G.O., No. 549, Mis.).

Exemption from Examination rules. See Abdul Wahab (G.O., No. 553, Mis.).

Expenditure not covered by an existing sanction. Procedure to be followed when an Executive Engineer is asked by a Civil Officer to make alterations or additions involving —, defined.
November 21, No. 1212 W. (Press).

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Fernel, J. C. See Consular Agent for France at Tellicherry (G.O., Nos. 532-33, Mis.).

Firing of salutes. See Salutes at Ootacamund (G.O., No. 542, Press, N.P.).

Food allowance. See Kandyan pensioners (G.O., No. 558, Mis.).

Foundation stone. The President of the Corporation of Madras informed that His Excellency the Viceroy has consented to lay the — of the new Corporation office on Saturday the 11th December 1909. **November 12, No. 534 (Mis.).**

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Government Press, Madras. The annual report on the working of the — and its branches during the year 1908–1909, reviewed. **October 16, No. 815, Public (Press).**

Hodding, Mr. F. The Resident in Travancore and Cochin informed that Mr. Hodding's claim to draw pay at the rate of Rs. 400 during his transit period, *i.e.* from the date of his relief from the British service to the date of his taking charge of the duties of Assistant Superintendent, Cardamom hills, is inadmissible. **November 16, No. 538 (Mis.).**

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——— Letter from the Ceylon Government declining to grant food and schooling allowances on account of the daughter of K. K. Sundararajulu Raja, communicated to the Collector of Madura. **November 29, No. 558 (Mis.).**

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Kavadi Channel disputes. His Excellency the Governor of the French Settlements in India requested to favour this Government with an early reply to letter No. 213, Political, dated 4th May 1909, on the subject of the compromise settled at Peralam regarding water disputes in connection with the Kavadi channel. **November 12, No. 535 (Mis.).**

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Minor Chief of Sangli. See Tour of the — (G.Os., 562–63, Mis.).

Muhammadan Library at Triplicane. The payment of the monthly allowance of Rs. 35 drawn by the Chairman of the — to Sultan Muhi-ud-din Sahib from the 1st September to the 31st December 1909, sanctioned. **November 6, No. 522 (Mis.).**

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Nawab of Banganapalle. Messrs. Branson and Branson informed that the Government are unable to accord their sanction to the institution of a suit against the — by Nanakram Ramchand for the recovery of certain sums of money alleged to be due to him. **November 19, No. 547 (Mis.).**

Office of the Paymaster, Carnatic Stipends. The Paymaster, Carnatic Stipends, informed that the Government see no objection to his proposal to appoint S. Chockalingam Pillai as Manager of his office. **November 16, No. 537 (Mis.).**

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Provident Fund system. Resolution of the Government of India, Finance department, No. 5196-P. of 14th October 1909, forwarding rules 10 (4) and 15-A of the rules of the General Provident Fund which relate respectively to withdrawal of accumulated sum on retirement and the procedure in regard to the calculation of interest on subscriptions to the fund, recorded. **November 9, No. 502, Finl. (Press).**

——— Letter from the Government of India, Finance department, No. 5333-P. of 21st October 1909, stating that the rate of the monthly subscription as prescribed in revised rule 7 of the General Provident Fund should be levied on salaries becoming due on or after the 1st November 1909, recorded. **November 9, No. 503, Finl. (Press).**

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Return of expenditure on stores. Endorsement of the Government of India, Department of Commerce and Industry, No. 8138–8159–100 of 28th October 1909, forwarding copy of their letter to the Government of the United Provinces stating that the annual return of expenditure on stores should be continued to be submitted till orders are received from the Secretary of State for India, recorded.
November 13, No. 507, Financial (Press).

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Said un-nisa. See Commutation (G.O., No. 521, Mis.).

Salutes at Ootacamund. The Assistant Adjutant-General, 9th (Secunderabad) Division, informed that the Government accept his proposal that the exact hour at which salutes should be fired at Ootacamund on the arrival at, and departure from, the station of Indian Chiefs and officials should be intimated to him in future.
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——— See Viceroy's tour (G.O., No. 545, Mis.).

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Travancore Maharaja. See Visit of the — (G.O., No. 543–44, Mis.).

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——— The programme of ceremonials to be observed during the — in December 1909, communicated to the officers concerned. **November 26, No. 557 (Press, N.P.).**

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November 18, No. 541 (Mis.).

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DISPOSAL LIST

OF

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POLITICAL DEPARTMENT,

FOR THE

MONTH OF NOVEMBER 1909.

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DISPOSAL LIST

OF

MISCELLANEOUS PAPERS IN THE ORDINARY SERIES,

POLITICAL DEPARTMENT,

FOR THE

MONTH OF NOVEMBER 1909.

Proceedings or letter.		Previous proceedings.	Abstract.
No.	Date.		
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515	1st ,,	No. 349 of 1909.	*Agricultural statistics.*—Forwarding to the Director-General of Commercial Intelligence, the — of the Cochin and Banganapalle States for 1084 M.E. and Fasli 1318, respectively.
516	4th ,,	No. 432 of 1909.	*Chief Judge, Pudukkóttai.*—Approving the continuance of the acting arrangements made by the Pudukkóttai Darbar consequent on the grant of extension of privilege leave to M.R.Ry. Rajagopal Pillai, Chief Judge, Pudukkóttai.
517	4th ,,	No. 301 of 1909.	*Abdul Wahab Sahib.*—Informing — that the orders already communicated to him with reference to his petition to the Government of India praying for nomination for the enrolled list of the Finance department cannot be reconsidered.
518 519	6th ,,	No. 278 of 1909.	*Kandyan pensioners.*—Forwarding to the Ceylon Government, petition from H. Kannuswami Raja praying for the payment of a moiety of the commutation amount sanctioned on behalf of the minor son of his deceased brother Venkatanarasimhala Raja.
521	6th ,,	No. 239 of 1907.	*Commutation.*—Approving the — of the stipend of Rs. 6 drawn by Carnatic Stipendiary Said-un-nisa and sanctioning the payment to her of a bonus of Rs. 445.
522	6th ,,	No. 473 of 1877.	*Muhammadan Library at Triplicane.*—According sanction to the payment of the monthly allowance of Rs. 35 drawn by the Chairman of the — to Sultan Muhi-ud-din Sahib from the 1st September to the 31st December 1909.
523	8th ,,	No. 30 of 1908.	*Repairs.*—According sanction to the carrying out of certain — to the buildings in the compound of the house occupied by the Superintendent of the Pudukkóttai State.

Proceedings or letter.		Previous proceedings.	Abstract.
No.	Date.		
	1909.		
525 526	9th Nov.	No. 289 of 1908.	*Consul for Belgium at Madras.*—Recording letter from Mr. A. H. Deane, —, stating that he has resumed charge of his office, and forwarding copy of his letter to the Government of India.
527 528	10th ,,	..	*Ceremonial Programmes.*—Returning to the Government of India with the blanks filled in, the draft — of the ceremonies to be observed at the formal exchange of visits between His Excellency the Viceroy and the Chiefs of Travancore and Cochin.
529	10th ,,	No. 85 of 1907.	*Tanjore Palace buildings.*—Informing the Government Agent, Tanjore, that the lease of the Sangitamahal building and Huzurmahal garden to the Tanjore Agricultural and Industrial Committee should not be renewed.
530 531	10th ,,	..	*Census of* 1911.—Informing the Government of India of the arrangements made by the Travancore and Cochin Darbars in connection with the Census operations in 1911.
532 533	10th ,,	..	*Consular Agent for France at Tellicherry.*—Recording letter from the Government of India intimating that the resumption of charge by Mr. J. C. Fernel of the office of — has been notified in the *Gazette of India*, and informing Mr. Fernel accordingly.
534	12th ,,	..	*Foundation stone.*—Informing the President, Corporation of Madras, that His Excellency the Viceroy has consented to lay the — of the new Corporation office on Saturday the 11th December 1909.
535	12th ,,	..	*Kavadi channel disputes.*—Requesting His Excellency the Governor of the French Settlements in India to favour this Government with an early reply to letter No. 213, Political, dated 4th May 1909, on the subject of the compromise settled at Peralam regarding water disputes in connection with the Kavadi channel.
536	12th ,,	..	*Postal service.*—Addressing His Excellency the Governor of the French Settlements in India on the subject of the draft rules regarding the extension of the French Postal Parcel service to all the French Settlements in India.
537	16th ,,	No. 137 of 1909.	*Office of the Paymaster, Carnatic Stipends.*—Informing the Paymaster, Carnatic Stipends, that the Government see no objection to his proposal to appoint S. Chockalingam Pillai as Manager of his office.
538	16th ,,	No. 140 of 1909.	*Mr. F. Hodding.*—Informing the Resident in Travancore and Cochin, that Mr. Hodding's claim to draw pay at the rate of Rs. 400 during his transit period, *i.e.*, from the date of his relief from the British service to the date of his taking charge of the duties of Assistant Superintendent, Cardamon Hills, is inadmissible.
539	17th ,,	No. 210 of 1879.	*Commutation.*—Requesting the Paymaster, Carnatic Stipends, to inform Shahzadi Begum that her request for the — of her stipend cannot be complied with.
541	18th ,,	..	*Visit of His Highness the Raja of Cochin.*—Communicating to the officers concerned, letters from the Resident in Travancore and Cochin regarding the — to Madras; stating that the arrival of His Highness will be public and issuing the necessary instructions for the firing of a salute and provision of a guard of honour, infantry guard and escort.

Proceedings or letter. No.	Proceedings or letter. Date.	Previous proceedings.	Abstract.
543 544	1909. 18th Nov.	..	*Visit of His Highness the Maharaja of Travancore to Madras.*—Communicating to the officers concerned, copies of the programme of the tour of His Highness the Maharaja of Travancore to Madras; stating that the arrival of His Highness will be public and issuing instructions for the firing of the usual salute and provision of infantry guard and escort.
545	18th ,,	..	*His Excellency the Viceroy's tour.*—Communicating to the Collectors concerned, extracts from the tour programme of His Excellency the Viceroy.
547	19th ,,	..	*Nawab of Banganapalle.*—Informing Messrs. Branson and Branson that the Government are unable to accord their sanction to the institution of a suit against the — by Nanakram Mamchund for the recovery of certain sums of money alleged to be due to him.
548	20th ,,	..	*Visit of the Raja of Cochin to Madras.*—Forwarding to the Officer Commanding Madras Brigade, an erratum to paragraph 3 of G.O., No. 541, Political, dated 18th November 1909, regarding the —.
549	22nd ,,	No. 254 of 1906.	*Swords for the Cochin Darbar.*—Informing the Resident in Travancore and Cochin that the Government of India have sanctioned the supply, on payment, to the Cochin Darbar of 22 swords with scabbards for the use of the Excise Amindars of the State.
551	23rd ,,	No. 18 of 1906.	*Resident in Travancore and Cochin.*—Requesting the Colonel on the Staff Commanding Madras Brigade to arrange for the firing of the usual salute on the arrival at Madras of the —.
552	24th ,,	No. 434 of 1909.	*College at Ernaculam.*—Recording letter from the Resident in Travancore and Cochin stating that the Cochin Darbar has remitted Rs. 1,802 on account of scrutiny by the Public Works department of the estimate for the construction of the hostel building at Ernaculam.
553	25th ,,	No. 410 of 1909.	*Adul Wahab.*—Directing the Paymaster, Carnatic Stipends, to inform — that his request for exemption from the Examination rules with a view to appointment as a Probationary Attaché in the Revenue department, cannot be complied with.
554	25th ,,	No. 425 of 1908.	*Settlement department, Pudukkóttai.*—Informing the Political Agent for Pudukkóttai that the Government of India have sanctioned the retention by the Puddukóttai Darbar of the services of P. Rajamannar Chetty and R. Subba Row for a further period of two years.
555	26th ,,	No. 100 R. of 1905.	*Petition.*—Recording with reference to G.O., No. R. 100, Political, dated 12th October 1905, Tirumalay Naiken's — praying for a pension.
556	26th ,,	Nos. 518–19 of 1909.	*Kandyan pensioners.*—Communicating to the Government Agent, Tanjore, letter from the Ceylon Government declining to grant to H. Kannuswami Raja a moiety of the commutation amount sanctioned on behalf of the minor son of his deceased brother Venkatanarasimhalu Raja.

Proceedings or letter. No.	Proceedings or letter. Date.	Previous proceedings.	Abstract.
	1909.		
558	29th Nov.	Nos. 513-14 of 1909.	*Kandyan pensioners.*—Communicating to the Collector of Madura, letter from the Ceylon Government declining to grant food and schooling allowances on account of the daughter of K. K. Sundararajalu Raja.
560	29th ,,	No. 97 of 1909.	*Austro-Hungarian Honorary Consular Agency at Cocanada.*—Recording the correspondence forwarded by the Government of India stating that the — has been temporarily left vacant and that the district of the Austro-Hungarian Honorary Consulate at Madras has been extended in order that the latter might temporarily look after Consular business in the Northern districts of the Madras Presidency.
561	29th ,,	..	*Second Judge, Pudukkóttai.*—Recording letter from the Political Agent, Pudukkóttai, regarding the acting arrangements made by the Pudukkóttai Darbar consequent on the death of the —.
562 563	29th ,,	..	*Tour of the minor Chief of Sangli.*—Communicating to the officers concerned the programme of the — and informing the Government of Bombay that His Excellency the Governor is pleased to accord permission to the Chief of Sangli to visit Madras and Ootacamund.

DISPOSAL LIST

OF

PAPERS IN THE ROUTINE SERIES,

POLITICAL DEPARTMENT,

FOR THE

MONTH OF NOVEMBER 1909.

Proceedings or letter.		Previous proceedings.	Abstract.
No.	Date.		
127	1909. 1st Nov.	No. 103 R. of 1908.	*Statement of periodicals.*—Informing the Superintendent of Stationery that none of the periodicals supplied to the Paymaster, Carnatic Stipends, and to the Resident in Travancore and Cochin, should be discontinued, and requesting him to supply the Resident in Travancore and Cochin with copies of the *Indian Patriot* and the *Travancore Mail* in addition to the copies of the periodicals now supplied to him.
128	1st ,,	No. 35 of 1908.	*Petition.*—Returning under the Petition rules to Ghulam Kutb-ud-din *alias* Mahabub Hussain, his — to the Government of India praying for the grant of a political pension.
129	2nd ,,	No. 105 R. of 1909. No. 82 R. of 1909.	——— Returning to Malik Khair-ud-din Hussain Khan, his — to the Government of India praying for the continuance to him of the pension enjoyed by his grandfather.
130	4th ,,	..	——— Rejecting under the Petition rules — from Abdul Ahad on the subject of his pension.
131	8th ,,	No. 110 R. of 1909.	*Shaik Nadim.*—Requesting the Paymaster, Carnatic Stipends, to grant a copy of G.O., R., No. 31, Political, dated 2nd March 1907, to —.
132	10th ,,	..	*Petition.*—Rejecting under the Petition rules — from the inhabitants of Poonjar Pakuthy, Travancore State, praying that full rights of ownership over their properties may be restored to them.
133	10th ,,	..	*Muhammad Mahdi Ali.*—Requesting the Paymaster, Carnatic Stipends, to inform — that his request to be granted a pedigree certificate of his family is inadmissible.
134	10th ,,	..	*Consul for Persia at Madras.*—Requesting the Paymaster, Carnatic Stipends, to inform Ghulam Muhammad Husan Ali Khan with regard to his application for the appointment of Persian Consul at Madras, that Government cannot transmit his application to the Consul for Persia at Bombay.

Proceedings or letter.		Previous proceedings.	Abstract.
No.	Date.		
	1909.		
135	12th Nov.	No. 23 of 1890.	*Mirza Akbar Hussain.*—Withholding under the Petition rules petition from — to the Government of India praying for an increased pension.
136	13th „	..	*Patriarch of Antioch.*—Requesting the Resident in Travancore and Cochin to return to the Metropolitan of the Syrian Church in Southern India, his letter to His Majesty the King Emperor of India on the subject of the honour bestowed by His Majesty on the — with an intimation in suitable terms that his letter should be submitted to His Majesty through the local authorities in India.
137	24th „	No. 33 of 1891.	*Casualty.*—Recording letter from the Agent to the Governor at Vizagapatam reporting the death of State pensioner Pitambara Bhanj of the Gumsur family.
138	25th „	..	*Administration report of the Pudukkóttai State.*—Forwarding to the Secretary, Secret and Political departments, India Office, two advance copies of the — for 1908–1909.

Government of Madras.

POLITICAL DEPARTMENT.

Recd. } 1909. *Enclosures*

Regd. *Spare copies*

G.O., No. 520, 6th November 1909.

Residency buildings at Trivandrum and Ernakulam.

Recording letter from the Resident in Travancore and Cochin stating that the Travancore and Cochin Darbars have no objection to the transfer of the — being considered to have taken effect from the 16th August 1909 in anticipation of the formal execution of the leases.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Read—the following papers :—

I

G.O., No. 372, Political, dated 14th August 1909.

Abstract.—Informing the Resident in Travancore and Cochin that the transfer of the Residency buildings at Trivandrum and Ernakulam may take effect from the 17th August 1909 in anticipation of the formal execution of the leases of the buildings; stating that separate orders will be passed regarding the furniture in the two Residencies and High Range bungalow and the payment of house and furniture rent by the Resident and Assistant Resident; and sanctioning the revised proposition statement for the establishments for the two Residencies and the High Range bungalow.

II

Letter—from R. C. C. Carr, Esq., I.C.S., Officiating Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—Camp Ernakulam, the 13th October 1909.
No.—R.O.C. 1153/09.

With reference to paragraph 1 of G.O., No. 372, Political, dated 14th August 1909, I have the honour to state that the Travancore and Cochin Darbars have no objection to the transfer of the Residency buildings at Trivandrum and Ernakulam respectively being considered to have taken effect from the 16th August 1909 in anticipation of the formal execution of the leases.

III

Official Memorandum No. 1705-1, Political, dated 20th October 1909.

With reference to his letter R.O.C. No. 1153, dated the 13th October 1909, on the subject of the transfer of Residency buildings, the Resident in Travancore and Cochin is requested to state whether the 16th or the 17th August 1909 was the first day of the Malabar year 1085.

2. The 17th was given as such in his letter R.O.C. No. 1153 of 1908, dated 19th April 1909, while in his present letter he refers to the 16th.

(By Order.)

A. Galletti,
Under Secretary to Government.

To the Resident in Travancore and Cochin.

IV

Letter—from R. C. C. Carr, Esq., I.C.S., Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—Trivandrum, the 30th October 1909.
No.—R.O.C. 1153.

With reference to Memorandum No. 1705-1, Political, dated 20th October 1909, I have the honour to inform you that the 16th August 1909 was the first day of the Malabar year 1085.

Order—No. 520, Political, dated 6th November 1909.

Recorded.

(True Extract.)

W. S. Meyer,
Chief Secretary.

Copy to the Resident in Travancore and Cochin.
" " Financial department.
" " Public Works department.

NOTES TO G.O., No. 520, POLITICAL, DATED 6TH NOVEMBER 1909.

[SUBJECT.—*Residency buildings at Trivandrum and Ernaculam.*]

Previous paper.

G.O., 372, *Political,* 14*th August* 1909.

II

From the Resident in Travancore and Cochin, dated 13*th October* 1909, *No.* 1153-*R.O.C.*

Page 5 of G.O., 372, Political, 14th August 1909.

In his letter No. 1153/08, dated the 19th April 1909, the Resident in Travancore and Cochin suggested that the 17*th of August* 1909, would be a convenient date for the Travancore and Cochin Darbars for the transfer of the Residencies at Trivandrum and Ernaculam respectively, being the first day of the Malabar year 1085. Government accordingly stated in G.O., No. 372, Political, dated 14th August 1909, that the transfer of the two Residency buildings might take effect from that day if the Darbars had no objection. The Resident now says that the Darbars have no objection to the transfer of the Residency buildings being considered to have taken effect from the 16*th August* 1909, in anticipation of the formal execution of the leases. In the Travancore Almanac for 1909, the 16th of August is shown as being the first day of the Malabar year 1085. Submitted that the Resident in Travancore and Cochin may be asked whether the first day of the Malabar year 1085 fell on the 16th or 17th of August 1909.

Page 12 of the Almanac.

2. Draft Official Memorandum is submitted.

P.DER.—18-10-09.

H.W.—19-10-09.

Issue.

A. GALLETTI—20-10-09.

[Official Memorandum No. 1705-1, Political, dated 20th October 1909, to the Resident in Travancore and Cochin—III.]

IV

From the Resident in Trvaancore and Cochin, dated 30*th October* 1909, *No.* 1153-*R.O.C.*

The Resident states that the 16th August 1909, was the first day of the Malabar year 1085. A draft order recording the letter is submitted.

P.DER.—5-11-09.

H.W.—5-11-09.

Issue.

A.G.—6-11-09.

[G.O., No. 520, Political, dated 6th November 1909.]

Government of Madras.

POLITICAL DEPARTMENT.

Recd.	1909.	*Enclosures*
Regd.		*Spare copies*

G.O., No. 524, 9th November 1909.

Arms for the Travancore Police.

Informing the Resident in Travancore and Cochin that the Government of India regret their inability to sanction a supply of smooth-bore breech-loading ·476 muskets with bayonets and scabbards for the use of the Travancore Police.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Read—the following papers :—

I

G.O., Nos. 378, 379, Political, dated 18th August 1909.

Abstract.—Requesting the Government of India to sanction the supply of 50 smooth-bore breech-loading ·476 muskets with bayonets and scabbards for the use of the Travancore Police.

II

Letter—from L. W. Reynolds, Esq., Deputy Secretary to the Government of India, Foreign Department.
To—the Chief Secretary to the Government of Madras.
Dated—Simla, the 19th October 1909.
No.—2074-I./A.

I am directed to acknowledge the receipt of your letter, No. 379, dated the 18th August 1909, recommending sanction to the supply, on payment, of 50 smooth-bore breech-loading ·476 muskets with bayonets and scabbards for the use of the Travancore State Police.

2. In reply I am to invite attention to the letter from the Government of India in the Foreign Department, No. 1594-I./A., dated the 12th August 1909, in which sanction was conveyed to the supply, on payment, to the Travancore Darbar of 500 breech-loading ·476 bore muskets for the use of the 1st Battalion of the Nayar Brigade. The issue of these additional weapons, in the opinion of the Government of India, fully meets the requirements of the Darbar, and they regret that they are unable in the circumstances to sanction a further supply.

Order—No. 524, Political, dated 9th November 1909.

In continuation of G.O., No. 378, Political, dated 18th August 1909, the Resident in Travancore and Cochin is informed that the Government of India regret their inability to sanction a further supply, on payment, of smooth-bore breech-loading ·476 muskets with bayonets and scabbards for the use of the Travancore Police, as they consider that the supply of 500 breech-loading ·476 bore muskets recently sanctioned for the use of the 1st Battalion of the Nayar Brigade should fully meet the requirements of the Darbar.

(True Extract.)

W. S. Meyer,
Chief Secretary.

To the Resident in Travancore and Cochin.

Government of Madras.

POLITICAL DEPARTMENT.

Recd. } 1909. *Enclosures*

Regd. *Spare copies*

G.O., No. 540, 17th November 1909.

Thachudaiya Kaimal Stanam.

Passing orders on the dispute between the Travancore and Cochin Darbars regarding the — of the Irinjalakuda temple in the Cochin State.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Read—the following papers :—

I

Letter—from R. C. C. Carr, Esq., I.C.S., Acting Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—the 11th May 1907.
No.—C. 220.

I have the honour to submit for the orders of the Government an appeal addressed to it by the Travancore Darbar in the matter of the status of the Thachudaiya Kaimal of the Irinjalakuda pagoda.

2. The case is fully stated in the Diwan's letter of 2nd February 1907, No. A/Political, to which I replied in my letter of 9th March 1907. The Diwan's further reply is dated 15th April 1907. Copies of these letters are submitted together with the enclosures to the Diwan's second letter in original. A list is appended.

3. The decision of the Arbitrator in the case was confirmed in G.O., No. 547, Political, dated 25th November 1881. The papers prior to this date are all before Government.

4. I enclose copy of Sir J. Thomson's letter of 16th October 1895 alluded to in my letter to the Diwan. I also submit copy of Mr. Hannyngton's letter to the Diwan of Travancore, dated 16th November 1891, as this contains Mr. Hannyngton's explanation of his own decision as Arbitrator.

5. There is no doubt that the decisions of the Cochin courts have reduced the Kaimal to a nonentity, but I cannot see that the Arbitrator's decision has been set at naught. As stated by Mr. Hannyngton himself his decision did not relate to the right of management but to the right of nominating a Kaimal. The claim of sovereign powers on the part of Travancore appears to me to be absolutely untenable, and I cannot recommend any interference with the decisions of the Cochin courts.

II

Official Memorandum No. 865-1, Political, dated 5th June 1907.

The papers will be returned to the Resident.

2. The Cochin Darbar should be requested to submit a formal presentment of their position with reference to the several points raised by the Travancore Darbar. The Resident should then, after further reference to the latter Darbar, if necessary, resubmit the case to Government (due attention being paid to rule XIV of the Correspondence Rules) with a self-contained statement of the question and a careful discussion of the several points at issue.

(By Order.)

A. Galletti,
Ag. Under Secretary to Government.

To the Resident in Travancore and Cochin.

III

Letter—from R. C. C. CARR, Esq., I.C.S., Officiating Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—Camp Munnar, the 20th May 1909.
No.—R.O.C. 220/07.

I have the honour to refer for the orders of Government a dispute between the States of Travancore and Cochin regarding the Thachudaiya Kaimal Stanam of the Irinjalakuda pagoda. This matter came before Mr. Hannyngton as Arbitrator and is dealt with in his decision dated 19th March 1881, a decision which was subsequently confirmed by Government in their Order No. 547, Political, dated 25th November 1881. The Cochin civil courts have now declared that the Kaimal cannot sue to recover rents due to the pagoda. Travancore contends that this decision has the effect of annulling the Arbitrator's decision which gave to the Kaimal the managership of the pagoda and its endowments. Cochin replies that disputes between the owners of the temple on the one hand and the manager on the other regarding matters incidental to the administration of the properties of the pagoda are matters for adjudication by the Municipal courts of the State having sovereign jurisdiction and that the executive Government of no State can have any manner of control over the decision of the duly constituted courts of justice. The Cochin Darbar therefore maintains that there is no case for submission to the Madras Government. Travancore suggested a joint enquiry by two officers, one from each State, into the affairs of the temple and said that the information thus gathered would serve as a useful basis for a scheme of future administration. Cochin, however, demurred on the ground that the joint action of the two Darbars would not bind either the Kaimal or the owners of the temple. The position is therefore an *impasse*, and I have no alternative but to submit the matter for orders.

2. I give below a short history of the case:

At Irinjalakuda in the Cochin State there is an ancient and important temple with large endowments of which the immoveables lie partly in Cochin, partly in Travancore and partly in British India. The affairs of this temple are managed by a person called the Thachudaiya Kaimal who is the nominee of His Highness the Maharaja of Travancore. The temple itself is the property of the Numburi community called the Yogam consisting of 42 families, of which the representative members are called Yogakars, and His Highness the Raja of Cochin is also included as one of the Yogakars or, as they are now called, Oorallers. It would be impossible to imagine a position more fruitful of causes for dispute and it is only natural that many disputes have arisen. These were brought to a head in the year 1881, and Mr. Hannyngton's decision quoted below was an attempt to solve the problem. After discussing the arguments on both sides Mr. Hannyngton decided (paragraph 18)—

(1) that the Thachudaiya Kaimal is the manager of the Irinjalakuda pagoda and its endowments,

(2) that he is the nominee and agent of Travancore but is subject to the civil and criminal jurisdiction of Cochin,

(3) that Cochin has no right of interference whatever in the affairs, spiritual or temporal, of the Irinjalakuda pagoda save such as may pertain to the office of Yogakar, held by the Raja of Cochin jointly with certain Numburis, and

(4) that on or before the 26th day of September 1881 His Highness the Raja of Cochin do send, according to usual custom, Tituram to the Raja of Travancore with a Yogakar requesting the nomination of a Thachudaiya Kaimal to the pagoda of Irinjalakuda.

3. For some 30 years prior to this decision the temple had been under the immediate management of the Cochin Darbar, and in pursuance of Mr. Hannyngton's award the present Kaimal was duly nominated by His Highness of Travancore and was installed soon after. A few years later in 1884, 1886 and subsequent years the Kaimal instituted suits to recover arrears of rent due to the temple and decrees were

passed in his favour. But in the year 1889 (1064 M.E.) the Yogakars, of whom the Raja of Cochin was one, sued * the Kaimal to compel him to render accounts to them claiming that they were the owners of the temple and its endowments and that the Kaimal was amenable to their authority. The Kaimal contended that he through the Maharaja of Travancore was the owner, that the Yogakars had never owned or exercised any right of control over him in the management and that he was not liable to render accounts. The District Judge of Anjikaimal in the Cochin State negatived the contentions of the Kaimal and passed a decree in favour of the plaintiffs. The Kaimal preferred an appeal to the Chief Court of Cochin but failed to appear, and the appeal was dismissed for default. This order was subsequently affirmed by His Highness the Cochin Raja's Court of Appeal on the 20th November 1900. In the meanwhile a suit brought by the Kaimal in the year 1899 in the Irinjalakuda District Munsif's Court (O.S. No. 1135 of 1073) to recover certain lands for the temple with arrears of rent was on the basis of the aforesaid decision in O.S No. 31 of 1064 dismissed on the ground that he was not competent to sue for rent. This decree was affirmed by the Zillah Court and was then taken to the Chief Court. The learned Judges who heard the same being divided in opinion, a reference was made to a third Judge, and the majority of these three Judges denied the competency of the Kaimal to institute suits for the properties and profits of the temple.

* O.S. No. 31 of 1064 in the Zillah Court of Anjikaimal.

4. This decision of the Chief Court of Cochin, dated 11th August 1904, has brought about the present *impasse.* I submit copies * of the judgments. It will be seen that the Chief Judge Mr. Locke and Mr. Narayana Marar decided the case against the view of Judge Mr. Krishna Menon. Mr. Marar commences with the assertion that the decision of the Arbitrator " defines the position and the status of the Thachudaiya Kaimal in the devaswom ". Further on he states that the enquiry before the Arbitrator was to determine as between the two States the respective rights claimed by them and that the Yogakars not being parties before the Arbitrator their rights were left untouched by him. This startling statement is based on the saving clause in paragraph 18 of Mr. Hannyngton's decision quoted above (No. 3) saying that Cochin has no right of interference save such as may pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Numburis. The saving clause was applied to the Raja of Cochin. But Mr. Narayana Marar has diverted it to the manager and has read Mr. Hannyngton's decision as stating that the Kaimal is the manager of the pagoda and its endowments, having presumably all powers to carry out his office, *save such as pertain to the office of Yogakar.*

5. The Chief Judge Mr. Locke took up the same position and held that Mr. Hannyngton's decision could only be binding on the two States and not on the Yogakars who were no parties to the arbitration. He relied also on the saving clause in No. 3 of paragraph 18 of the decision. The difficulty of defining the Kaimal's position in the devaswom is remarked upon, Mr. Locke stating that he had been referred to both as the owner and as a trustee; and it was held that the plaintiff's (Kaimal) claim was to represent the devaswom independently of the Yogakars, apparently as the absolute owner. This untenable position was of course denied, Travancore having indeed admitted in her original statement before the Arbitrator that the devaswom and its properties belonged to the Yogam. But the learned Judge went much further than this and denied that the Kaimal had any right to sue.

6. The third Judge, Mr. Krishna Menon, took the contrary view. He quoted the decision in S.A. 1887 of 1065 (1890) passed by the former Chief Judge and Mr. Locke, as second Judge, to the effect that the Arbitrator's decision clearly invested in the Kaimal the entire management and control of the whole of the temple concerns and its endowments adding " under these circumstances the Kaimal has clearly shown that he has the right to sue for devaswom properties ". The decision in O.S. No. 31 of 1064 is referred to, and it is pointed out that the gist of that decision was that the Yogakars had established their right to an account. The consequences of holding the view taken by Mr. Locke and Mr. Narayana Marar are thus stated :— " The plaintiff (Kaimal) has undoubtedly got the right and duty of the management.

How is he to exercise or perform it if he cannot even recover the rents due to the temple?" Mr. Krishna Menon therefore held that the Kaimal *could* sue on behalf of the devaswom.

7. The crux of the whole matter lies in the statement of the two Judges forming the majority that the Yogakars not having been parties to the enquiry before the Arbitrator their rights were in no way affected by this decision. I submit that this view is untenable. The Arbitrator was appointed with the consent of both the States to decide questions involved in the inter-Statal disputes. His decision is binding upon the States, and it follows that no private individuals within those States can put forward any claims to rights which are opposed to the due fulfilment of that decision. To adopt any other view must result, as it has done in the present case, in the annulment of the Arbitrator's decision by the establishment of private rights not in consonance therewith. As pointed out by Travancore, the Judge's decision brings about an anomaly that the right of management of the pagoda and its endowments vests in a person who cannot collect the rents on which the upkeep of the pagoda depends and that the right to collect these rents vests in some undefined authority who cannot manage the pagoda and its endowments. The position is of course impossible, and Travancore urges that as the Cochin courts derive their power from the Raja, who is bound to see to the loyal observance of treaty stipulations and the execution of settlements sanctioned by the Paramount Power, it is for the Cochin Darbar by proclamation or otherwise to rectify the errors of those courts. Cochin, however, as already stated in paragraph 1, holds that they have no power whatever over the decision of the Municipal courts and that as the Arbitrator himself declared that the Kaimal was to be subject to the civil and criminal jurisdiction of Cochin, both States must abide by the impossible decision of the Cochin Court.

8. A side issue has been raised in the course of a somewhat voluminous correspondence regarding the conduct of the Kaimal. It is practically admitted on both sides that the present Kaimal is an unsatisfactory manager. But Travancore expresses her willingness to enquire thoroughly into this individual's conduct and has no desire whatever to support him personally. The single point for decision is whether the decision of the Cochin Chief Court must be regarded as the final word. Cochin disclaims any intention or attempt to disturb the decision of the Arbitrator and recognises that any action in contravention of the terms of that decision should be vigorously suppressed in the interest of both the Darbars alike. Cochin declares that her executive Government have not interfered in any way with the management of the temple, and states that she cannot be held responsible for the judicial decisions in her courts. Both darbars agree that the affairs of the devaswom are drifting into troubled waters and that the Hindu community, who frequent the temple, are the sufferers: but they cannot agree as to a mode of settlement.

9. One method of solving this riddle would be to appoint another arbitrator, but I venture to think that such a course is unnecessary. Mr. Hannyngton's decision was not perhaps a very happy solution, for it was pretty clear that under this piebald arrangement future disputes would arise. But that decision is a fact and it would raise innumerable questions if any attempt were made at this date to go behind it. I submit that it must be followed to the letter; and the common sense view appears to be that the Kaimal having been declared to be the manager of the temple and its endowments both States must use all their powers to permit him to manage. The Cochin courts have undoubtedly obstructed him, and as Cochin shields herself behind the decision of her own courts she is also obstructing. Travancore merely desires to carry out the intentions of the Arbitrator.

10. This dispute was submitted to Government in May 1907 and the papers were returned to me with memorandum No. 865–1, Political, dated 5th June 1907. Since that date the aspect of the case has altered, Travancore having withdrawn from the position taken up by Diwan Mr. Gopalachari and agreeing to focus the discussion on the one point regarding the power of the Kaimal to sue for the recovery of rent. Both Mr. Davidson and I have discussed the matter personally with both Diwans.

ENCLOSURE.

IN THE CHIEF COURT OF COCHIN.

Thursday the 27th Karkadagam 1079 *corresponding to 11th August* 1904.

PRESENT.

S. Locke, Esq., *Chief Judge.*
Mr. Justice Krishna Menon.
Mr. Justice Narayana Marar.

Special Appeal No. 80 *of* 1078.

Manikan Keralan, Thachudaiya Kaimal, plaintiff .. *Special Appellant.*
By vakils Messrs. A. G. Gover, T. R. Ramachandra Aiyar and K. Govinda Marar.
Kunhiraman and others, defendants .. .. .. *Special Respondents.*
By vakil Mr. K. Achutha Menon.

Special appeal against the decree of the District Court of Anjikaimal in A.S. No. 116 of 1077 confirming the decree of the District Munsif of Irinjalakuda in O.S. No. 1135 of 1073.

Special Appeals Nos. 104 *and* 105 *of* 1078.

Manikan Keralan, Thachudaiya Kaimal, plaintiff .. *Special Appellant.*
By vakil Mr. K. Govinda Marar.
Mallu and others, defendants .. .. *Special Respondents.*
By vakil Mr. K. Achutha Menon.

Special appeals against the decrees of the District Court of Anjikaimal in A.S. Nos. 44 and 43 of 1078 confirming the decrees of the District Munsif of Irinjalakuda in O.S. Nos. 550 and 551 of 1077.

Special Appeal No. 111 *of* 1078.

Krishna Menon, defendant .. .. *Special Appellant.*
By vakil Mr. Padmanabha Menon.
Manikan Keralan, Thachudaiya Kaimal, Muktiar Neelakanta Aiyan, plaintiff. *Special Respondent.*
By vakils Messrs. T. R. Ramachandra Aiyar and K. Govinda Marar.

Special appeal against the decree of the District Court of Trichur in A.S. No. 37 of 1078 confirming the decree of the District Munsif of Trichur in O.S. No. 727 of 1077.

Judgment.

The sole question for us to decide in these cases is whether the Thachudaiya Kaimal is entitled to sue on behalf of the Kudal Manikam devaswom.

The decision of the Arbitrator in the inter-Statal disputes that arose between Travancore and Cochin upon the death of the last Kaimal in 1026 defines the position and status of the Thachudaiya Kaimal in the devaswom. That decision is in the following terms:

" I decide therefore that the Thachudaiya Kaimal is the manager of the Irinjalakuda " pagoda and its endowments, that he is the nominee and agent of Travancore but is subject to " the civil and criminal jurisdiction of Cochin, that Cochin has no right of inteference whatever " in the affairs, spiritual or temporal, of the Irinjalakuda pagoda, save such as may pertain to the " office of Yogakar held by the Raja of Cochin jointly with certain Numburis. And I decide " that on or before the 26th day of September 1881 His Highness the Raja of Cochin to send, " according to usual custom, Thitturam to the Raja of Travancore with a Yogakar requesting " the nomination of a Thachudaiya Kaimal to the pagoda of Irinjalakuda " and it was confirmed by the Madras Government.

The present Thachudaiya Kaimal, who is the plaintiff in all these cases, was accordingly appointed. By virtue of such appointment he claims to represent the devaswom as well in suits as in other matters. His claim to sue is disputed on the ground that the devaswom can properly be represented in courts only by the owners or proprietors of it who are the Yogakar referred to by the Arbitrator, that he though nominated by Travancore is only a manager of the devaswom and its affairs on behalf of the Yogakar proprietors and that therefore these latter are the persons entitled to sue on behalf of the devaswom and not he.

Before proceeding further I wish to point out that the scope of the enquiry before the Arbitrator was to determine as between the two States the respective rights claimed by them. The Yogakar were no parties before him, and that their rights whatever those might be, were left untouched by him. The saving clause in the decision regarding such rights " as may pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Namboodries " clearly shows this.

The Yogakar however acquiesced in the decision of the Arbitrator and accepted the nominee of the Travancore Maharaja as the manager of the devaswom. After a few years of his management they brought a suit against him, O.S. No. 31 of 1064, for an account, alleging that as manager of the devaswam on their behalf, he was bound to render account to them annually. He denied the proprietary right of the Yogakar to the devaswom and his liability to account, asserting at the same time that the devaswom as well as his own Stanam belonged to the Travancore Maharaja, and he was by virtue of his appointment as Thachudaiya Kaimal managing the affairs of the devaswom in his own right and not as agent of the Yogakar and therefore not liable to account to them. The Zillah Court of Anjikaimal found all his contentions against him and passed a decree in favour of the Yogakar as sued for. There was a clear finding upon the evidence that the Yogakar were the proprietors of the devaswom, and also that according to time-honoured custom the Thachudaiya Kaimal was bound to render accounts to them. This was in Dhanu 1070. The case was taken in appeal and special appeal by the Kaimal, but in both the courts judgment was allowed to go against him by default.

The question is whether under these circumstances plaintiff can maintain these suits. So far as I can see this point is completely covered by authority. In *P. K. Unni Nambyar v. C. M. Neelakandhan Bhattathiripad*, I.L.R., IV Madras, 141, it was held by the Madras High Court that even a Karayama Samudayam of a Malabar devaswom with a proprietary and hereditary right in his office is not competent to sue on behalf of the devaswom, he being merely an agent or manager, and the ownership of the property of the devaswom being vested in the Uralers. The fact that the Kaimal is a nominee of the Travancore Maharaja does not render his position any way superior to that of a Karayama Samudayam; for, as found by the Arbitrator (see paragraph 16 of his award), Travancore herself did not succeed in proving " one single act showing proprietary right over the devaswom property ". By a fortuitous concourse of circumstances interesting perhaps from a historical or antiquarian point of view the Travancore Maharaja came to possess the privilege of nominating managers to the devaswom. What we are concerned with is the fact that he is only a manager accountable to the owners who are the Yogakar. This being his position, I doubt whether it comes up in rank even to the status of a Karayama Samudayam with a proprietary interest in the devaswom as contemplated in the above Madras case, as by the decision in the suit 31 of 1070 between the Yogakar and himself his proprietary right has been found against.

This court itself has ruled against the competency of the hereditary manager of a Brahmaswom of religious institution to sue on behalf of the institution to recover property in *Ichikayu v. Kesavan Vadhyan Nambudiri*. It is true that in the judgment in that case there are certain observations tending to limit the operation of that rule to suits for the recovery of possession of immoveable property. But in two recent cases (S.A. Nos. 65 and 66 of 1077) the late acting Chief Judge and Mr. Justice Krishna Menon held that there was no distinction between suits for land and suits for rent in this respect and that a Samudayi of a temple could not in his own name sue to recover purappad due to the devaswom under a kanom without the sanction of the Uralers. They expressly followed the Madras case above referred to.

On behalf of the plaintiff two cases decided by this same court were relied on, namely *Shangunni Nair* v. the *Tachudaiya Kaimal* (A.S. No. 59 of 1062) and *Raman* v. *Thachudaiya Kaimal* (S.A. No. 87 of 1065). The decision in both these cases upheld the plaintiff's right to sue on behalf of the devaswom. But when it is remembered that both these decisions were passed before the Yogakar had come forward and established their proprietary right as against the Kaimal and his accountability to them, it will be readily seen that the weight of their authority on the point we are considering dwindles almost into nothing in the altered state of circumstances.

Some reliance was placed on the circumstance that the Zillah Judge in his judgment in O.S. No. 31 of 1064 uses the word " *installed* " in connection with the appointment of the Thachudaiya Kaimal as manager, and an argument even based upon it to show that the Kaimal was not an ordinary manager, but one invested with powers similar to those enjoyed by Mahants

and heads of mutts on other coast. There is nothing in the signification of the word itself pointing to any such conclusion. The verb " to install " according to Webster means (1) " to set in a seat, to give a place to, as " she installed her guest hospitably by the fireside " (W. Scott), (2) to instate in an office, rank or order, to invest with any charge by the usual ceremonies ; as to install an ordained minister in his parish—" Unworthily thou wast installed in " that high office ". There is thus nothing in the uses of the word to justify the contention. Further, it may be mentioned that there is nothing whatever on the record in any of these cases to show that there was anything peculiar in the ceremonies or circumstance connected with the installation of the Thachudaiya Kaimal in his stanom or office to differentiate him in character from other managers of similar institutions. Even if there were any such peculiarity it was his duty to have alleged and proved it in the suit against him by the Yogakar in such a way as to avoid the coming into existence of such a decree against him. He failed to do so then, as seen by the result, and I doubt whether he can be allowed to do so now. That decision, I should think, is binding upon him. It is true it may be urged that the defendants were no parties to that suit, and that therefore there does not exist that mutuality between the plaintiff and the defendants in respect of the binding character of the decision in it which is required by law. But is the objection of any force in the present case where the defendants choose to stand by the party as between whom and the plaintiff that decision is binding ? I think not.

I would for the above reasons hold that plaintiff is not the proper person to sue on behalf of the devaswom, and accordingly dismiss S.A. Nos. 80, 104 and 105 and allow S.A. No. 111 and dismiss the plaintiff's suit but in the circumstances of the case without costs.

K. Narayana Marar,
Judge.

The plaintiff is the Thachudaiya Kaimal of the Irinjalakuda pagoda. He has brought these suits to recover from the defendants the plaint properties with arrears of pattom.

There seems to be no dispute that the pattom chits on which these suits are based were duly executed by the several defendants, but they plead that as the plaintiff is only a manager or agent of the devaswom he cannot singly maintain these actions.

I have therefore to consider the question of plaintiff's competency to sue on behalf of the devaswom. I must confess it is difficult to determine the plaintiff's real position in the devaswom, for in the course of the argument he has been referred to both as its " owner " and " trustee ". But, as I understand the case, from the materials before me, he claims the right to represent the devaswom, independently of the Yogakar, apparently as its absolute owner and he alleges that he acquired this status by virtue of the decision of the Arbitrator who was appointed, some years ago, to enquire into and settle the disputes between the States of Travancore and Cochin regarding the Thachudaiya Kaimal stanom of the Irinjalakad pagoda.

To determine this question it becomes necessary to look into Ex. W, the decision of the Arbitrator, which was subsequently confirmed by the Madras Government. Nowhere in that decision can I find anything to support the position taken up by the Kaimal in this case. The Arbitrator describes him merely as the " manager of Irinjalakad pagoda and its endowments " and the Arbitrator held that the Kaimal was the " nominee and agent of Travancore but subject to the civil and criminal jurisdiction of Cochin".

In paragraph 18 of his award, the Arbitrator held that the Kaimal is the " manager of the devaswom and that Cochin has no right of interference whatever in the affairs, spiritual or temporal, of the Irinjalakad pagoda, save such as may pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Nambudris".

In another part of his award he says, " it is evident that the Travancore nominee had entire management and control of the whole of the temple concerns and endowments and was no more subject to Cochin in regard to that management and control than any jenmi (proprietor) subject of the State". Much has been made of these pronouncements ; but whatever may be the weight to be given to them, it is obvious they can only be binding on the two States and not on the Yogakars who were no parties to the arbitration. Indeed the Arbitrator does not profess to deal with the rights of the Yogakars, and the saving clause in paragraph 18 of award clearly indicates this. Taking the award as a whole, the plaintiff's position cannot be said to be that of the absolute owner of the plaint devaswom. At the most, he can only be looked upon as its manager, a position which is analogous to that of a samudayam of a Malabar devaswom. The decision of the Arbitrator therefore does not confer on the plaintiff any proprietary rights such as would entitle him to represent the devaswom in suits of this nature, or for the matter of that suits of any description.

I would now turn to another aspect of the case which, to my mind, has rather an important bearing on this question. Admittedly the Irinjalakad devaswom and its properties belong to the Nambudri community of Irinjalakad, called the " Yogam " consisting of 42 Illoms which came into existence about the commencement of the Kaliyogam (*vide* Ex. K.K.K.K., the

supplementary written statement put in by Travancore in the arbitration case and exhibited in O.S. No. 31 of 1064 on the file of the Anjikaimal District Court. In their capacity as Yogakars and as such the proprietors of the plaint devaswom a suit (O.S. No. 31 of 1064) was brought by them to compel the Kaimal to submit to them annual accounts of his stewardship as the agent and sole manager of the said devaswom. In that suit the Kaimal contended that he was put in charge of the devaswom properties by the Cochin Government; that he manages the affairs of the devaswom not as the agent or manager of the plaint devaswom, but in his own right as owner; and that he was not liable to be called upon to submit any accounts to Yogakars. He thus practically pleaded then, as he now does, his absolute proprietary right over the devaswom. Exhibit W, the decision of the Arbitrator, was filed in that case as Ex. II, as evidencing his proprietorship. After a very full investigation the District Judge disallowed all the Kaimal's contentions and held that Ex. W conferred on the Kaimal only the right of a manager, while the ownership of the devaswom vested entirely in the Yogakars. This decision was appealed against by the Kaimal and the appeal travelled through two courts (the Chief Court and His Highness the Raja's Court of Appeal) in the first of which he allowed judgment to go against him by default, and in the Raja's Court of Appeal that judgment was upheld. The judgment of the District Judge which is a well considered one, to all intents and purposes, thus stands confirmed by the highest court in the State. No attempt has been made to get that decree reviewed and so long as it remains in force, the status the Kaimal now claims for himself is obviously untenable. Thus the plaintiff has been declared by a competent court to be only the manager of the plaint devaswom so far as the yogam is concerned and as such he certainly cannot be permitted to ignore the rights of its legitimate owners, viz., the Yogakars, and maintain suits on his own account. There is clear authority for this position (see judgment in S. A. Nos. 65 and 66 of 1077 I.L.R. IV, Madras, 141). Indeed it is hardly necessary to enlarge on this question, for it is a well-known principle that the law does not allow a person in whom a right does not reside to displace or supersede one in whom it does.

There is only one other point which has to be noticed. My attention has been called to the fact that in one case (S.A. 87 of 1065) in which decision I took part, the plaintiff's right to sue on behalf of the devaswom had been recognized. Undoubtedly it is so, but the plea of *res judicata* cannot hold good here, for the present defendants were no parties to that case. Moreover that decision can have no applicability to the present case, for it was passed long before the Yogakars had established their proprietary right against the Kaimal and the Kaimal's rights been limited to those of a manager.

For the foregoing reasons I concur with my learned colleague Mr. Justice Narayana Marar in the decision he has come to in this case. The decree of this court must therefore be drawn up on the lines indicated by him.

S. LOCKE,
Chief Judge.

I regret I cannot concur with my learned colleague in his opinion about these cases.

In paragraph 2 of my judgment in A.S. 59 of 1062, referred to in this case, I have distinctly pointed out that the Thachudaiya Kaimal's position is not analogous to that of an agent or samudayam, that he derives his authority from the Travancore and Cochin Governments and from the fact of his consecration, that he must be considered to have that right to sue for the devaswom which the Diwan of Cochin was previously exercising and that he has a right in himself and can bring a suit.

In S. A. 87 of 1065 the late Chief Justice and the present Chief Judge, as second Judge, say " Two decrees of this court have been filed to show that the plaintiff sued and obtained decrees in the name of the plaint devaswom and Ex. W, the decision of the Arbitrator, which was subsequently confirmed by the Madras Government, clearly vests in the Thachudaiya Kaimal the entire management and control of the whole of the temple concerns and endowments. Under these circumstances the plaintiff has clearly shown that he has the right to sue for devaswom properties."

Against these decisions the judgment of Mr. Gover and myself in S.A. Nos. 65 and 66 of 1077 are of no account; for what we held there was only that *samudayees* could not sue by themselves and even there we allowed the Uralers to be brought in as supplemental plaintiffs. In the cases now before us, the question is not about an ordinary samudayam as I have already pointed out.

The next question is whether the judgment in O.S. 31 of 1064 makes any difference in the Thachudaiya Kaimal's right to sue. That was a suit by the Yogakars of the temple for an account and in the judgment of the original court the Judge expressed an opinion that the Kaimal was only a manager of the devaswom, but I think the real basis of that decision is that the Yogakars had established their right to an account by proof of " time-honoured custom ". The appeal and special appeal against this decision were disposed of without entering into the merits. I do not under these circumstances attach much value to the decision in O.S. 31 with regard to its bearing on the point now under consideration, viz., the plaintiff's right to sue on behalf of the devaswom.

The consequences of a contrary opinion may also be considered. The plaintiff has undoubtedly got at present the right and duty of the management. How is he to exercise or perform it if he cannot even recover the rent, etc., due to the temple ?

When the right of management is given to the plaintiff not by the free consent and to be exercised only during the pleasure and subject to the control of the Yogakars, but because and in pursuance of the Travancore Maharaja's contractual right to appoint a manager, it seems extremely doubtful whether the Yogakars can alone bring suits on behalf of the devaswom without the Thachudaiya Kaimal when there is one, being also a party to it. As the Kaimal represents the Travancore Maharaja, it may also be argued that His Highness should also be a party. To hold that in every petty suit in connection with the devaswom Their Highnesses the Cochin and Travancore Maharajas and all the Yogakars are necessary parties will be almost equivalent to shutting out the devaswom from the courts.

For these reasons I hold that the plaintiff can sue on behalf of the devaswom. The lower court's decrees in S.A. 80 and 104 and 105 must therefore be reversed and those cases remanded for a decision on the merits, costs hitherto being costs in the suit. The decree appealed against in S.A. 111 must be confirmed and the special appeal dismissed with costs.

T. C. Krishna Menon,
Judge.

IV

Letter—from R. C. C. Carr, Esq., I.C.S., Officiating Resident in Travancore and Cochin.

To—the Chief Secretary to Government.

Dated—Trivandrum, the 11th August 1909.

No.—Dis. 322.

In continuation of my letter No. 220, dated 20th May 1909, on the subject of the Thachudaiya Kaimal sthanam of the Irinjalakuda temple, I have the honour to submit a printed copy of the decision of the Subordinate Judge, South Malabar, in Appeal No. 303 of 1902 (S. A. No. 718 of 1904) which has recently been sent to me by the Kaimal.

2. This devaswom has properties in British Malabar, and the position of the Kaimal has thus come before the British courts for adjudication. It appears that the decision of the Sub-Judge of South Malabar has been taken in appeal to the Madras High Court who sent issues to the Sub-Judge. The present decision contains the findings on the said issues.

3. The Sub-Judge has found—

(1) that the Yogam has no proprietary interest in the devaswom property, that the only right which they have is the right to take the initiative in getting a Thachudaiya Kaimal appointed by the Travancore Maharaja, to have the accounts of the devaswom read to them, to perform certain ceremonies and to see that the spiritual interests of the temple are properly kept up, and

(2) that the Kaimal is the trustee of the devaswom.

4. The whole judgment is most interesting and deals categorically with all the points contained in my letter quoted above. The Sub-Judge holds that the status of the Thachudaiya Kaimal in relation to the devaswom was not one of the points referred to the Arbitrator and that the decision of this point was beyond the scope of his enquiry. He refers incidentally to the decision of the Chief Court of Cochin and is of opinion that the dissentient judgment of the second Judge in favour of the Kaimal is more in conformity with the usage of the devaswom and the nature of the office than the judgments of the other two Judges. The finding therefore differs from the majority judgment of the Chief Court.

5. I am not aware whether the case has yet come before the Madras High Court for decision. I submit that the final orders of that tribunal may be awaited.

ENCLOSURE.

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH MALABAR AT CALICUT.

Present:

M.R.Ry. T. V. ANANTAN NAIR AVARGAL, B.A., B.L.

Friday, the 15*th day of January* 1909.

Appeal No. 303 of 1902.

Second Appeal No. 718 of 1904.

Between

Kongote Echaran Nair........................*Appellant.*

and

Kongote Karunakaram Nair and 118 others........*Respondents.*

On appeal from the decree of the Court of the District Munsif of Temelprom (Alatur), dated the 23rd day of December 1901, and made in

Original Suit No. 401 of 1900.

Between

Kongote Echaran Nair........................*Plaintiff.*

and

Kongote Karunakaran Nair and 117 others........*Defendants.*

This appeal having been heard on the 9th day of January 1909 in the presence of the Hon'ble Mr. M. Krishnan Nair, vakil for the appellant, and of Mr T. A. Kallianakrishna Aiyar, vakil for respondents 2, 4, 6, 7, 10 to 12, 62 to 69, 73, 75 to 78, 83 to 89, 93 to 95, 98 to 100, 104 and 105, the other respondents not appearing either in person or by vakil and having stood over to this day for consideration, the court delivered the following

Finding.

The issues on which the High Court has called for a finding in this case are (1) whether the Yogam or members of the Yogam are interested in the suit property and, if so, what is the nature of that interest and (3) whether the Kaimal is or is not a trustee.

2. The Kootal Manikkam devaswom to which the plaint property belongs is a famous and richly-endowed temple situated in the Native State of Cochin. It is a devaswom unique in its origin, history, and traditional usages. The deity, to whose worship the temple is dedicated, is not a member of the Hindu Trinity, but is Bharata, the deified, brother of Lord Sri Rama, the hero of the Ramayana. Though the temple is situated in the Cochin territory under the civil and criminal jurisdiction of His Highness the Raja of Cochin, the nomination to the office of Thachudaiya Kaimal, the incumbent of the institution, is vested in His Highness the Maharaja of Travancore According to immemorial usage, whenever there is a vacancy in the office of Thachudaiya Kaimal, the nomination of a successor to that office is to be made by the Travancore Maharaja on a requisition for that purpose from a Nambudri Association called the "Irinjalakudai Sabhayogam", the head of which is the Raja of Cochin. This Sabhayogam is composed of the representative members of 42 Nambudri Illoms situated in Cochin, Travancore and British Malabar. When a man is nominated by the Travancore Maharaja for the office of Thachudaiya Kaimal, he is brought down in great state and with great religious honours to Irinjalakudai, where the temple is situated. He then becomes a sanyasi and is ordained as Thachudaiya Kaimal and installed in his office, after the performance of certain religious ceremonies. The individual selected as Thachudaiya Kaimal, though a Sudra by caste, becomes by his ordination as a sanyasi and appointment to the office of Thachudaiya Kaimal, at once arisen to the high status of a spiritual superior. He is raised to a position not much below that of the Brahmans, as is shown by the fact that persons belonging to the lower castes have to address him as if he were by birth an aristocratic Nambudri Brahman. Social honours on a par with those prescribed for a Raja are rendered to him, and he is looked upon with such religious veneration as is generally associated with the headship of a mutt. The office of Thachudaiya Kaimal is, to judge of it from the evidence on record, an office of considerable religious sanctity and spiritual eminence. According to tradition, he is the viceregent of the Travancore Maharaja so far as the management of the devaswom is concerned, and even the Raja of Cochin has

to touch his palanquin when he is taken in procession round the temple on his installation to the office of Thachudaiya Kaimal. By his installation as Thachudaiya Kaimal, he becomes in theory identified with the deity presiding over the temple. This is clear from the fact that he assumes the name of the deity (" Manikkam Keralnen ") and carries on the management of the devaswom in the name so assumed. He becomes, when installed in office as Thachudaiya Kaimal, the visible representative of the deity within the temple. This circumstance clearly differentiates his office from that of an ordinary manager of a temple. An ordinary manager of a devaswom is not entitled to assume the name of the deity in his management of the devaswom. The Thachudaiya Kaimal as shown by the documents on record, manages the devaswom in his own right as the human representative of the deity, whose name is the name attached to his office. The usages of this devaswom are unique and bear no analogy to those regulating the ordinary devaswoms in Malabar. A body of Brahmanical hierarchy called the " Yogakars" with the local Ruler (the Raja of Cochin) at their head is the authority in whom by usage is vested the right to initiate the nomination to in the office of Thachudaiya Kaimal when it falls vacant. According to tradition, the Maharaja of Travancore appears to have obtained the right of nomination to the office of Thachudaiya Kaimal in consequence of a very valuable gem (manikiam) belonging to him, having been absorbed by the deity when it was taken to the image for the purpose of comparison (*vide* Ex. XVII). However this may be, the evidence shows that from time immemorial, the Maharaja of Travancore has exercised the right of selecting a person for appointment to the office of Thachudaiya Kaimal. The installation of the person selected by the Travancore Maharaja on the requisition of the Cochin Raja is effected by the Yogakars and by the Cochin Raja. The Thachudaiya Kaimal, after he is ordained a sanyasi and installed in his office, becomes the representative of the deity and is the authority in whom is vested the absolute right to the control and management of the devaswom. The name " Thachudaiya Kaimal " denotes in itself a right of absolute ownership to the temple building. The word is composed of two parts " *Thachoo* " which in Malayalam means building and " *Utaya* " which denotes ownership. The etymological meaning of the name " Thachudaiya Kaimal " is " lord of the building. " which in the present case is clearly the pagoda. That this is not a farfetched definition is shown by the statement Ex. XVII made by the Diwan of Travancore in 1881. The evidence on record shows that in ancient times there were frequent disputes between the States of Travancore and Cochin in regard to the management of this devaswom, the Maharaja of Travancore claiming a right to superintend the internal management of the devaswom and the Raja of Cochin repudiating that claim as often as it was put forward. The whole matter of the dispute between Travancore and Cochin was referred for decision to the British Resident of Travancore and Cochin, and the Resident Mr. Hannyngton made in March 1881 his award (Ex. CC.) settling the dispute. He went into the history of the institution very deeply and found that the Thachudaiya Kaimal was the party absolutely entitled to the management and control of the whole of the temple concerns and endowments, that Travancore had only the right of nominating the Thachudaiya Kaimal, but no proprietary right over the devaswom property, that the Raja of Cochin had no right of interference whatever in the affairs, spiritual or temporal, of the pagoda save such as pertained to his office as a member of the Sabhayogam (*vide* paras. 15, 16, and 18 of the award Ex. CC). In the whole of the discussion which led to this award there is nothing to show that the Sabhayogam (the Yogakars) claimed any proprietary right to the devaswom endowments. On the other hand, it was the Raja of Cochin that claimed to be entitled to the devaswom, in opposition to the State of Travancore which asserted the right of nominating the Thachudaiya Kaimal, who was entitled to the control and management of the devaswom. The observation of the Arbitrator in Ex. CC that Thachudaiya Kaimal, though the absolute manager of the devaswom, is the agent of the Travancore Maharaja is only an *obiter dictum* and is not borne out by the evidence. The status of Thachudaiya Kaimal in relation to the devaswom was not one of the points referred to the Arbitrator and the decision of the point was beyond the scope of his enquiry. The only question referred to him for decision was the question of the respective rights claimed by Travancore and Cochin in regard to the stanom of Thachudaiya Kaimal, and it was therefore not necessary for him to decide the question of the legal powers vested in the office of Thachudaiya Kaimal. No doubt the Thachudaiya Kaimal is the nominee of Travancore, as both according to usage and the provisions of the treaties of 941 and 981, the right of nomination to the office is vested in the Travancore Maharaja, but the proposition that the Thachudaiya Kaimal is the agent of Travancore in his management of the devaswom is one which is refuted not only by the nature of the office, but also by the character of the management carried on by the Thachudaiya Kaimal. The Thachudaiya Kaimal, though nominated by the Travancore Maharaja on the requisition of the Cochin Raja, becomes, by his ordination as a sanyasi and installation in office in accordance with usage, the incumbent of the stanom of Thachudaiya Kaimal to which is attached the right of absolute control and management of the devaswom. The Thachudaiya Kaimal is not responsible to the Travancore State for the way in which he manages the devaswom and the latter has no right to call upon him to render accounts of his management. On the other hand, the Arbitrator's award Exhibit CC shows that during the long period for which the Thachudaiya Kaimal was in office, the Travancore State did not exercise a single act of dominion over the devaswom. So far as the records now filed disclose, the office of Thachudaiya Kaimal has been in existence since

520 M. E. and during all this period the absolute management and control of the devaswom was carried on by the incumbent in the office of Thachudaiya Kaimal. There was an interregnum between the years 1026 and 1057 when where was no Thachudaiya Kaimal. This was purposely created by the Yogakars and the Raja of Cochin with a view to bring the devaswom under their control. With this object, they declined to send a requisition to Travancore for the nomination of a Thachudaiya Kaimal when there was a vacancy in the office in 1026. The office consequently lay vacant from 1026 to 1057, when the present Thachudaiya Kaimal was appointed to fill up the vacancy, at the intervention of the British Resident. The Yogakars appear to have, during the vacancy in the office of Thachudaiya Kaimal, appointed a Pattali in 1027 to manage the devaswom (*vide* Exhibit XI), but it is a curious circumstance that in suits brought in respect of devaswom properties, when there was no Thachudaiya Kaimal in office, it was the Dewan of Cochin and the Pattali that figured as plaintiffs and that the Yogakars were conspicuous by their absence (*vide* Exhibits W, X, Y). Whether the Pattali was appointed by the Raja of Cochin or by the Yogakars does not clearly appear. Exhibit XI, copy of a deed of appointment, produced to show that it was the Yogakars that appointed the Pattali is not free from suspicion. The original of it is not produced and there is no satisfactory explanation for the non-production of the original. The fact that the Cochin Raja took up the management of the devaswom when there was no Thachudaiya Kaimal in office from 1026 to 1057 is explained by the right vested in the sovereign to assume the management of public institutions when there is a vacancy in the office of the authority entitled to manage them. The Yogakars do not appear to have taken any part in the management of the temporal concerns of the devaswom even during the period of the interregnum from 1026 to 1057. It was the Diwan to Cochin that appointed gazhagoms (temple servants) when there was no Thachudaiya Kaimal in office (*vide* Exhibit XV).

3. The claim of the Cochin State to manage the devaswom was eventually negatived by the arbitration award of the British Resident (*vide* Exhibit CC) and the Resident's decision was acquiesced in by the Cochin State (*vide* Exhibit DD). As I have already said, there is nothing to show that the Yogakars have any right to the properties of the devaswom. Their function is purely that of a sacerdotal body in whom is vested the right of safeguarding the spiritual and temporal interests of the devaswom by taking the customary steps for the election of a proper person to fill the office of Thachudaiya Kaimal to represent the devaswom whenever there should be a vacancy. They form as it were the electorate through whose action the Thachudaiya Kaimal is to be elected. They do not appear to possess any right to take part in the temporal concerns of the devaswom which are under absolute control and management of the Thachudaiya Kaimal. Exhibits X and Y show that, after the death of the Thachudaiya Kaimal in 1026, the Cochin Sircar assumed the management of the devaswom. This could not have been the case if the Yogakars were in law the body entitled to the management of the devaswom. Exhibit X (the Avoradha-Grandham of 983) simply shows that the Yogakars have the right of moving the Cochin Raja to apply to the Travancore Maharaja for nominating the Thachudaiya Kaimal. Exhibits XIII to XVII, XIX, LVII and LXVI relied on by the respondent's vakil do not at all show that the Yogakars have a right to the management of the devaswom. There is no mention of any such right in any of the numerous communications which passed between the British Resident and the Diwans of Cochin and Travancore on the subject of the Thachudaiya Kaimal stanom. The respondents have produced two decisions of courts in the Native State of Cochin to show that the Yogakars are the persons entitled to the management of the devaswom. One of them is Exhibit XIX, a judgment of the Anji kaimal Zillah Court and the other is Exhibit LXIV, a judgment passed by a District Munsif in that State.

4. The judgment, Exhibit XIX, was passed in a suit brought in 1064 (1889) by the members of Yogam against the Thachudaiya Kaimal, the present 65th defendant, to compel him to render accounts to them of his management of the devaswom. They obtained a decree as sued for against the Thachudaiya Kaimal. That judgment so far as it holds that Thachudaiya Kaimal has to get his accounts read to the Yogakars at the Annual assembly is in accordance with the usage of the devaswom, but the observations in the judgment to the effect that the Yogakars are the owners of the devaswom are not in accordance with the evidence now before the court. Those observations are based principally upon a statement said to have been made by the Travancore Sircar in a supplementary written statement filed by it before the Arbitrator. The Zillah Judge appears to have taken that written statement as evidence against the Thachudaiya Kaimal and based his whole finding upon the averments contained in that written statement. It is however clear that allegations made in a written statement by a party interested are not evidence against a third party. This fallacy of treating pleadings as proof vitiates that judgment as a whole, and none of the reasons stated in it for the position that the Yogakars are the proprietors of the devaswom is sufficient to support that position. I am not prepared therefore to attribute any weight to this judgment of a subordinate court in the Native State of Cochin. There was no adjudication on the merits by the Chief Court of Cochin as the appeal filed against the judgment of the Zillah Court was dismissed for default of prosecution (*vide* Exhibits XX and XXI).

5. The other judgment relied upon by the respondent's vakil is Exhibit LXIV, which was passed by a District Munsif in the Cochin State in a suit brought by the Thachudaiya Kaimal to recover certain property belonging to the devaswom. The District Munsif held that the plaintiff, Thachudaiya Kaimal, was merely a manager of the devaswom accountable to the

Yogakars in respect of his stewardship of the devaswom and that he was not entitled to sue. This judgment proceeds, in my opinion, upon the untenable view that the position of Thachudaiya Kaimal is analogous to that of a Samudayam of a Malabar devaswom. This view is altogether unwarranted and is quite opposed to the origin and history of the office of Thachudaiya Kaimal and the powers and dignities attached to it. The District Munsif does not discuss in his judgment the evidence in support of his view, but bases his finding chiefly upon *à priori* notions of Ethics and his own conception of the exigency of devaswom management. This judgment of a Court of First Instance, which proceeds upon a false analogy is clearly not an authority. Nothing is more misleading in law than a false analogy. The usages relating to religious institutions in India are not uniform and it is wholly unsafe to assume that the Samudayam of a Malabar devaswom corresponds to the Thachudaiya Kaimal of Kootal Manikkam devaswom. There is no manner of analogy between the two. The Thachudaiya Kaimal is the ordained incumbent of an office of great importance and dignity, which can only be filled by a sanyasin who has forsaken all his worldly connections. As I have already shown, the Thachudaiya Kaimal when he is installed in office assumes the name and dignity of the deity presiding over the temple and manages the affairs of the devaswom as representative of the Deity. It is clearly wrong to confound his office with that of a samudayam who is merely a creature of the Uralans and is liable to be turned out at their pleasure.

6. The plaintiff has produced some judgments in which it has been held that the Thachudaiya Kaimal is the lawful representative of the devaswom and is, as such, the proper person to sue on behalf of the devaswom. Exhibit P is one of such judgments. It was passed by the District Court of Anjikaimal on 18th February 1901. The District Judge held, in that case, that the status of Thachudaiya Kaimal was not analogous to that of a samudayam. This judgment was passed after the Yogakars had obtained the decree, Exhibit XIX, declaring that Thachudaiya Kaimal was liable to render accounts to them. Referring to that decree, the District Judge remarks, quite correctly in his judgment, that the Yogakars' right to call for accounts is not inconsistent with the Thachudaiya Kaimal's right of management of the devaswom as its rightful representative. In the case of a public temple, even the persons interested in the worship of that temple are in strict law entitled to take steps against the trustee to compel him to render accounts of his management (*vide* Act XX of 1863 and section 92 of the Code of Civil Procedure, Act of 1908). Such a right in the Yogakars is not an indication of any proprietary title in them. It is a significant circumstance that, according to the usage of this devaswom, the Yogakars have only the right to hear the accounts read. They have no right to call upon the Thachudaiya Kaimal to render accounts to them. They have no right to deal with the balance found due, they have no right even to pass a voucher in token of the accounts having been rendered (*vide* the evidence of defendants' 1st witness). In other words, the Thachudaiya Kaimal is not accountable to them for the income of the devaswom, but has simply to exhibit his accounts of management to them in the temple. This is perfectly consistent with the legal right of independent management being vested in the Thachudaiya Kaimal. Exhibit R is the judgment of the Zillah Court of Trichur in O.S. 99 of 1061, in which it was held that the Thachudaiya Kaimal was the rightful manager of the devaswom and was entitled to sue for recovery of devaswom property. This judgment proceeds upon a proper basis and is, in my opinion, entitled to weight. This judgment was confirmed in appeal. The appellate judgment of the Chief Court is Exhibit S and it is valuable as showing that in the opinion of the learned Judge who decided the appeal, the Thachudaiya Kaimal derived his authority, not from the Yogakars, but from the fact of his consecration and appointment to the office. Exhibit Q is another decree which was obtained by Thachudaiya Kaimal for recovery of devaswom property. Exhibit MM shows that Thachudaiya Kaimal, as the representative of the devaswom, was allowed by the courts to recover the money paid as compensation for certain devaswom lands taken up under the Land Acquisition Act. It is significant to note that the judgment speaks of the Thachudaiya Kaimal as the "jenm-claimant", showing thereby that he was the representative of the devaswom, which was the jenmi of the lands. The respondents' vakil has called my attention to a decision of the Chief Court of Cochin in S. A. 80 of 1078 in which it was held by a majority of two out of three Judges that the Thachudaiya Kaimal was not entitled to sue on behalf of the devaswom. This judgment is not one of the exhibits filed in the present case, but it is reported in the Malabar Law Quarterly for November 1906, page 117. It is not an authorised report, but a private Law journal. Assuming that I may take the report of the judgment therein as correct, I am altogether unable to concur in the view taken by the majority of two Judges in that case. Their view appears to have proceeded upon a supposed analogy between the office of Thachudaiya Kaimal and the position of a Samudayam in a Malabar devaswom. I have already shown that there is no such analogy and that the office of Thachudaiya Kaimal is altogether different from that of a Samudayam. I do not consider that the reasons upon which the decision is rested are in accordance with the evidence now on record. I am of opinion that the dissentient judgment of the second Judge in favour of the Thachudaiya Kaimal is more in conformity with the usage of the devaswom and with the nature of the office of Thachudaiya Kaimal. There is thus a conflict in the decisions of the Cochin Courts regarding the powers of Thachudaiya Kaimal, but the decisions which hold that he is, by virtue of his office, entitled to the absolute control and management of the devaswom and is entitled to sue on behalf of the devaswom are, in my opinion, entitled to greater weight, being more in accordance with the tradition and usage of the devaswom.

7. I have already shown that Thachudaiya Kaimal when he is ordained as a sanyasi and installed in his office after "abhishekom" (anointment) assumes the name of the deity presiding over the temple ("Manikkan-Keralan") and is looked upon as the visible representative of the deity. This is pretty evident from the terms in which he is addressed in the documents executed to him as representative of the devaswom. In exhibit Z, kychit executed by 1st defendant to him for the plaint demise and in Exhibit LVIII, the kanom-deed corresponding to it, he is styled Manikham Keralan (the name of the deity) and is addressed by the honorific term "Thirumanassu" which is used only in regard to aristocratic Nambudri Brahmans. These documents describe him as "[illegible]" (the administrative incumbent of the devaswom), and the property of the devaswom demised under these documents is described as property belonging to him in jenm തങ്ങടെ ജന്മം. This description shows that he was completely identified with the devaswom. Exhibits JJ, KK, LL, kychits executed to him by third parties in respect of devaswom properties describe him as the proprietor of the devaswom. It is a significant fact that the kychit exhibit LL was executed by one of the Yogakars, and the admission in the kychit that Thachudaiya Kaimal was the owner of the devaswom to which the property belonged is important to show that the claim now set up by the Yogakars, that they are the proprietors of the devaswom is not entitled to weight. Exhibit RR is a mortgage-deed executed by another member of the Yogam to Thachudaiya Kaimal for a sum of Rs. 11,000 which the latter advanced out of the devaswom treasury. In this document also, he is described as the owner of the devaswom. The same description appears in exhibit A also. It is a noteworthy circumstance that in all the documents executed to Thachudaiya Kaimal, he is not directly addressed by the executants, but he is addressed through his agent the "Pattola Menon" (the accountant). This form of address which is generally used only in the case of Rajas and aristocratic Nambudris is an indication of the high status and dignity attached to the office of Thachudaiya Kaimal. Exhibit O is the jema patta of the properties of the devaswom in Palghat taluk. This jema patta stands in the name of Thachudaiya Kaimal and he is described in it by the British Revenue officers as the proprietor of the Kootal Manikkam devaswom. In his endorsement exhibit SS, the Tahsildar of Palghat describes the Thachudaiya Kaimal as the *jenmi*, and pattadar of the devaswom property which was in question there. In exhibit UU, the rough patta granted to the Thachudaiya Kaimal (65th defendant) for devaswom properties, he is described as the proprietor of the devaswom. Even so far back as the Malayalam year 1016 (1841 A.D.) the Thachudiaya Kaimal used to deal with the Deveswom properties as absolute proprietor of the devaswom. This is shown by the kanom-deed Exhibit XXXVI, which he executed in respect of the plaint property in 1016 [1841 A.D.]. The demise under this document was the demise prior to the plaint demise of 1888 under exhibit Z.

8. From the documents considered above, it is pretty clear that the Thachudaiya Kaimal has been all along dealing with devaswom-properties and managing the devaswom affairs as the absolute representative of the devaswom, and that he has been recognized by the outside public all along, and on some occasions by some members of the "Yogam", as the rightful representative of the devaswom. There is no documentary evidence to show that the Yogam has any proprietary interest in the devaswom property. Exhibit X [the Avarodha-Grandham] does not show that the Yogam has any proprietary right to the devaswom properties. It simply shows that they are, according to usage, entitled to take the initiative in the matter of the nomination of a Thachudaiya Kaimal by Travancore on the occurrence of a vacancy in that office. There is no indication, in any of the documents on record, of any right in the Yogakars in regard to devaswom properties. There is not the slightest mention of any such right in the Yogakars in any of the numerous communications which, through a long period, passed between the Diwans of Travancore and Cochin on one side and the British Resident on the other side regarding the management of the devaswom. The unsupported statement of defendants' witnesses that the Yogakars are the owners of the devaswom is absolutely worthless and is shown to be false by the large mass of documents produced on plaintiff's side. What the evidence on record shows is that the management of the devaswom properties has been throughout carried on by the Thachudaiya Kaimal except during the period of the interregnum between the years 1026 and 1057 when the management was taken up by the Cochin Sircar as the office of Thachudaiya Kaimal was vacant. From 1841 to 1851 and from 1082 up to the present day the Thachudaiya Kaimal has been dealing with devaswom properties as the absolute representative of the devaswom. The term "ഉടമ" (owner) used in describing him in the documents already discussed is in accordance with his character as the representative of the deity in whom the ownership of the devaswom properties is vested. His true legal character is that of a *trustee* entitled to the absolute management of the devaswom, in his own right as the representative of the deity. The Yogakars have merely the right to take the initiative in the appointment of the Thachudaiya Kaimal by the Travancore Maharaja, but do not possess any proprietary interest in respect of the properties of the devaswom. No doubt they have some interest in the spiritual concerns of the devaswom and are entitled to perform the Theverseva and Pancha sandha ceremonies in the temple. This however does not give them any right to interfere in the management of the temporal concerns of the devaswom. Their true legal position appears to be that of a body of Brahmanical heirarchy in whom is vested, according to usage, the right to see that the spiritual and temporal interests of the devaswom do not fail by a vacancy in the office of Thachudaiya Kaimal. They are interested in the upkeep of the worship in the temple and have

got a right to hear the accounts of the devaswom read out to them in the temple by the accountant of the Thachudaiya Kaimal. This is all their right. They have no proprietary interest in the properties of the devaswom. The only right which they possess is what I have already described and this does not, in my opinion, make them interested in the suit property within the meaning of section 85 of the Transfer of Property Act. I find accordingly on the first issue referred to me that the "Yogam" has no proprietary interest in devaswom property, that the only right which they have is the right to take the initiative in getting a Thachudaiya Kaimal appointed by the Travancore Maharaja for the devaswom when there should be a vacancy in that office, to have the accounts of the devaswom read to them by the accountant of the Thachudaiya Kaimal in the temple, to perform the ceremonies called Theverseva and Panchasandha in the temple and to see that the spiritual interest of the temple are properly kept up. They have no interest in the suit property such as entitles them to be made parties to the suit. I find the first issue accordingly in the negative.

9. On the second issue, I find, for the reasons already stated, that the Thachudaiya Kaimal is in law the trustee of the devaswom. The evidence on record shows that he has been all along managing the devaswom properties as the rightful representative of the devaswom, without any interference on the part of the '*Yogam*'. Though in some documents he is styled the proprietor of the devaswom properties the description in those documents taken as a whole simply shows that he is the representative of the devaswom and, as such, the person in whom the properties of the devaswom are legally vested. The fact that he is not described as *Uralan* in the documents relating to the devaswom is of no consequence, because the usages and designations relating to this devaswom are unique and have nothing in common with those applicable to the ordinary devaswom in British Malabar. It has been decided by the Privy Council that the rights regulating particular public religious institutions in India depend upon their own particular circumstances and have to be deduced from the history of their foundation and immemorial usage. Such being the case, the non-mention of the word *Uralan* in connection with the Thachudaiya Kaimal is not by any means a ground for holding that he cannot be regarded as the trustee of this particular religious institution. On the evidence on record, I am of opinion that his true legal position is that of a trustee of the devaswom. I find accordingly on the second issue that the Kaimal is the trustee of the devaswom.

Anantan Nayar,
Subordinate Judge.

V

Telegram—from the Chief Secretary to Government.
To—the Resident in Travancore and Cochin.
Dated—the 12th August 1909.
No.—573.

Please send copies of Government Orders 458, 23rd September 1881, and 547, 25th November 1881, and of correspondence disposed of by them, also Thomson's letter, 16th October 1895, and Hannyngton's letter, 16th November 1891, mentioned in your letter to Government C. 220, 11th May 1907, regarding Thachudaiya Kaimal dispute.

VI

Telegram—from the Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—the 17th August 1909.

Your No. 573. Copies of papers regarding Kaimal being made for despatch.

VII

Letter—from R. C. C. Carr, Esq., I.C.S., Officiating Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—Trivandrum, the 18th August 1909.
No.—R.O.C. 220.

In continuation of my telegram dated 17th instant, I have the honour to forward herewith copies of the undermentioned papers relating to the Thachudaiya Kaimal's stanom in the Irinjalakuda temple. The Cochin Diwan's letter No. 949, dated 2nd September 1881, referred to in Mr. Hannyngton's letter No. 94, dated 7th September 1881, the Travancore Diwan's letter No. 4339 referred to in Mr. Hannyngton's letter No. 99 of the 12th September 1881 and the Travancore reply to the

Cochin appeal are also wanted to complete the correspondence. These papers are not forthcoming in the records of my office Some twenty years ago or more these records were kept in a separate box and were attacked by white-ants. Some papers were unfortunately destroyed.

Enclosures.

(1)

G.O., No. 458, *Political, dated the* 23*rd September* 1881.

Read—the following papers :—

> *Letter*—from J. C. Hannyngton, Esq., Ag. Resident in Travancore and Cochin.
> *To*—the Chief Secretary to Government.
> *Dated*—the 7th September 1881.
> *No.*—94.

I have the honour to forward an appeal preferred by the Cochin State against the decision of the Arbitrator in the Thachudaiya Kaimal stanom dispute together with a book containing copies of documents, etc., relating thereto and a plan of the pagoda and two spare copies of the appeal (a document book).

2. I also forward copy of the letter of the Diwan of Cochin, No. 949, dated 2nd September 1881, which gave cover to the above appeal.

3. I have notified to the Travancore Diwan the fact of the said appeal having been preferred.

4. I have the honour to draw attention to the request contained in paragraphs 4 and 5 of the Diwan of Cochin's letter.

5. You will notice that under paragraph 18 of the Arbitrator's decision, the 26th day of September current has been fixed for execution of his award and unless an immediate order of suspension be issued by the Government of Madras, I have no doubt Travancore will press for execution which as Resident I have no power to stay.

> *Letter*—from J. C. Hannyngton, Esq., Ag. Resident in Travancore and Cochin.
> *To*—the Chief Secretary to Government.
> *Dated*—the 12th September 1881.
> *No.*—99.

In forwarding copy of letter No. 4839/R. 1577 of this day's date from the Diwan of Travacnore, I have the honour to request that early intimation may by given to me on the subject.

Order—No. 458, Political, dated 23rd September 1881.

The Resident will intimate to the Travancore Sirkar that the Government are prepared to receive any "answer" they may see fit to file in the appeal by the Cochin Sirkar against the decision of the Arbitrator in the Thachudaiya Kaimal stanom dispute.

2. The application to hear counsel cannot be entertained.

(True Extract.)

J. A. Davies,
Ag. Under Secretary.

To the Resident in Travancore and Cochin.

(2)

G.O., No. 547, *Political, dated the* 25*th November* 1881.

Read—the following papers :—

> *Letter*—from J. C. Hannyngton, Esq., Ag. Resident in Travancore and Cochin.
> *To*—the Chief Secretary to Government.
> *Dated*—the 4th November 1881.
> *No.*—115.

I have the honour to forward herewith the answer of His Highness the Maharaja of Travancore's Government to Cochin's appeal in Thachudaiya Kaimal stanom case.

Order—No. 547, Political, dated 25th November 1881.

The Government, having carefully considered the case, are of opinion that the Arbitrator's decision is well founded, and resolve to confirm it.

(True Extract.)

R. Davidson,
Chief Secretary.

To the Resident in Travancore and Cochin.

(3)

Letter—from J. C. Hannyngton, Esq., Ag. Resident in Travancore and Cochin.
To—the Diwan of Travancore.
Dated—the 16th November 1891.
No.—1547.

I have the honour with reference to your No. 3432/P. 198 of 18th July to forward a copy of my memorandum of 13th July 1882 and also of a letter addressed by me to you on the 12th July 1882 on the same subject. Both these papers were written by me as Arbitrator, and not, as asserted in paragraph 9 of your letter No. 3992/P. 230, dated 14th August 1891, after I have ceased to act as such. My position as Arbitrator continued until March 1883.

2. Though there is no objection to your Government lending or giving the services of a competent man to the Kaimal at his request, I would hold that your Government have no power to "appoint" any such person.

3. A perusal of my decision as Arbitrator clearly shows that the contention throughout between the States did not relate to the right of management of the pagoda and its endowments but to the right of nominating a Kaimal.

4. The decision tends to show that as a fact neither Travancore nor Cochin ever exercised proprietary rights over the devaswom property, but that the entire management and control was exercised by the Kaimal who was nominated by Travancore.

5. The Kaimal as Travancore nominee may be a sort of indirect agent or support to Travancore influence, but as manager of the temple and its endowments he is entirely independent of both States save as a subject of Cochin, and I must reassert that I consider it of the highest importance to the amity of the States that Travancore should refrain entirely from all interference with the management of the devaswom.

6. That there has been such interference is, I think, clearly shown by Narayana Pillai's letter to the Diwan of Cochin which commences:

"In accordance with the order of the Travancore Government appointing me as the manager of Koodalmanickam devaswom at Irinjalakuda, I am managing the affairs of the devaswom."

7. The former manager Keshoor Nilakantan Krishnan was not appointed by Travancore but directly by the Kaimal.

8. In the communication No. 1769 of the 5th Vrischigom 1066 the Diwan Peishkar in charge states that the appointment of Narayana Pillai was made at the request of the Kaimal, but in your letter of the 14th August 1891 you appear to me to claim distinctly the right to appoint manager and otherwise interfere in the management of the temple, a course which is almost certain to lead to friction between the States and which is taken exception to by the Cochin Diwan.

9. I shall be glad of an early expression of your views as it is well that the question should be definitely settled as soon as possible.

(4)

Letter—from J. Thomson, Esq., I.C.S., Resident in Travancore and Cochin.
To—the Diwan of Cochin.
Dated—the 16th October 1895.
No.—Ref. on C. 3144.

Correspondence ending with letter No. 1823, dated 16th September 1893, from the Diwan of Cochin.

In reply to the correspondence marginally-noted on the subject of the appointment by the Travancore Government of a manager or assistant to the Thachudaiya Kaimal, I have the honour to state that as the Travancore Government informs me that future appointments of manager will not issue as if directly made by and proceeding from it and as you consent to be satisfied with such assurance and do not press for revision of the last order of appointment of this particular officer the controversy may now be considered as at an end.

(5)

Appeal—by T. Govinda Manone, Diwan of Cochin.
To—His Excellency the Governor in Council.
Dated—Cochin, the 2nd September 1881.

Appeal preferred by Totaycaut Govinda Manone, the Diwan of Cochin against the decision of J. C Hannyngton, Esq., Arbitrator, dated the 19th day of March 1881 in the case of the Tachudaya Kymul Sthanom of the Iranjalicooda Pagoda under the Agreement entered into between the States of Cochin and Travancore on the 21st and 24th October 1880 for the settlement of Boundary disputes and other matters, ratified by the Government of Madras by Order 481, dated 29th October 1880.

Ground of Appeal.

Because the conclusions arrived at by the Arbitrator are not warranted by the evidence given in the case.

Reasons.

1. One of the matters referred to the Arbitrator by the agreement between Cochin and Travancore, dated the 21st and 24th days of October 1880, was "the dispute regarding the Thachudaiya Kaimal sthanom of the Irinjalakuda pagoda." The agreement does not state what the dispute was, but in the pleadings, written and verbal, it appeared that the claim of Travancore was that on the death of a Thachudaiya Kaimal (an officer of the temple) His Highness the Raja of Cochin was bound, according to past usage and by agreement, to send a Titturum, or Royal letter, to His Highness the Maharaja of Travancore requesting the nomination of a person to be successor in the office. The case for Cochin was that His Highness the Raja of Cochin was bound to send a Titturum or letter not on the death of each Thachudaiya Kaimal, but whenever the temple, or rather part of it called the Sreecovil, (sacred and principal building in the temple wherein the idol "Kudal Manikkum" is kept) required reconstruction. This was the principal and strictly the only question submitted for the decision of the Arbitrator. Incidentally there arose the question what the duties of the Thachudaiya Kaimal were when he was appointed, Travancore asserting that he was entitled to manage the affairs of the temple and that he was in fact appointed for that purpose, and Cochin denying his right to manage the affairs of the temple, and asserting that he was appointed for the purpose of seeing to the reconstruction of the temple, or rather the sacred building abovementioned, though he continued to be Thachudaiya Kaimal and to reside in the temple till his death.

2. The pleadings in the case on behalf of Travancore and Cochin are to be found in pages 1 to 15 of the printed book sent herewith. The Arbitrator's decision is contained at pages 16 to 18 of the same book. All the evidence adduced for Travancore (consisting of Exhibits I to XVI and the evidence of three witnesses) is to be found at pages 19 to 34 of the book. The evidence for Cochin (Exhibits A to O) is at pages 35 to 48 of the same book.

At page 18 of the book, paragraph 18, last clause, the decision of the Arbitrator upon the principal question will be found as follows :—"And I direct that, on or before the 26th September 1881, His Highness the Raja of Cochin do send, according to usual custom, Titturum" (Royal letter) "to the Raja of Travancore requesting the nomination of a Thachudaiya Kaimal to the pagoda of Irinjalakuda." In the earlier part of the same paragraph the decision upon the questions incidentally raised is :—"I decide therefore that the Thachudaiya Kaimal is the manager of the Irinjalakuda pagoda and its endowments. That he is the nominee and agent of Travancore but is subject to the civil and criminal jurisdiction of Cochin. That Cochin has no right of interference whatever in the affairs, spiritual or temporal, of the Irinjalakuda pagoda save such as may pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Namburis."

3. The following facts were admitted expressly or impliedly :—

(1) That the last Thachudaiya Kymal was nominated by Travancore at the request of Cochin in the year 983 of the Malayalam era, corresponding to the year 1807–1808 of the Christian era, and that he held office until his death in 1026 (1851).

(2) That since 1851 no one has held the office of Thachudaiya Kaimal.

(3) That the preceding Kaimal died in 954 (1778–79) and that no appointment of a successor was made until 983 (1807–1808) when the last appointment was made.

(4) That the temple is upwards of 4,000 years old.

(5) That it is situated in the Cochin territories.

(6) That His Highness the Raja of Cochin is one of the Yogakars of the temple.

(7) That Travancore has no proprietary right to the temple.

(8) That no nomination of Thachudaiya Kaimal was made by Travancore except on the request of Cochin.

4. It was asserted, on behalf of Cochin and not denied by Travancore, except as stated hereinafter, that during the existence of the temple only four Thachudiaya Kaimals were appointed.

5. The evidence adduced by Travancore in support of her claim, namely, that upon the death of one Thachudaiya Kaimal application should be made for the nomination of a successor, is as follows :—

(1) The documents marked I and II, part and counterpart of a treaty between Their Highnesses the Rajas of Cochin and Travancore, dated 941 (the 6th of October 1765). The part of the document referring to this matter is towards the end of it :—"As the Irinjalakuda Thachudaiya Kaimal's sthanom belongs exclusively to us" (Travancore) "from times of old you" (Cochin) "shall permit it to be conducted in accordance with past usage."

(2) Document VI, an agreement entered into between the agents of Travancore and Cochin, in the year 981 corresponding to 1806, clause 7 of which is to the following effect :— "It has been agreed that His Highness the Raja of Cochin should, as usual, send a Titurum "along with the Yogakars requesting the nomination of a Thachudaiya Kaimal for the comple- "tion" (or reconstruction) "of the pagoda work at Irinjalakuda, and that the said Kaimal "should be appointed and the building completed" (or reconstructed) "and the devaswom affairs "should be allowed to be managed as heretofore".

(3) Document VII, dated 1004, corresponding to the 21st October 1828, purporting to be a statement signed by certain Yogakars of the temple is as follows :—" As to the question put to "us as to what are the respective dignities and powers possessed by the Rajas of Travancore "and Cochin relating to the Irinjalakuda pagoda we answer—'The conduct of the "'affairs of that pagoda, its receipts and disbursements and all the dignities appertaining "'thereto, belong to Travancore, who nominates and ordains the Thachudaiya Kaimal, "'through whom the abovesaid affairs are conducted and the ceremonies of the pagoda "'performed, and Cochin has nothing to do with it. Such is our knowledge. There is a Subba "'Yogam Council of 42 houses (Illoms) and all these 42 houses have conferred on the Cochin "'Raja the sthanom and rights of one house which Cochin enjoys : save this we do not know "'of Cochin having any right, or of having exercised any before in the Irinjalakuda pagoda. "'This is all that we know and all that we have stated is true'."

(4) Document VIII, a statement purporting to be signed by certain Yogakars in 1004, corresponding to June 1829, is as follows :—" In accordance to the past usage of having the "'Kalabhom' (birthday) ceremony performed in the Irinjalakuda pagoda on the birthday of "the Thachudaiya Kaimal on the star Ahilium in the month of Chingom, being the birthday of "the present Thachudiya Kaimal, the Kalabhom was performed until 1003 (1828) and now that "the birthday of the present Raja of Cochin also falls on the same day, and as disputes have "arisen as to who should have the preference in the performance of the Kalabhom ceremony "and as we are asked to give our opinion on the same and on the customs obtaining in the "pagoda we answer—' As the Thachudaiya Kaimal's sthanom in that pagoda being the highest "'we think that, conformably to past usage, the Kalabhom on his birthday must be performed "'and cannot be adjourned'."

(5) The three witnesses examined on behalf of Travancore were called to prove that VII and VIII were genuine documents by evidence that three of their signatures were in the handwriting of the persons purporting to sign them.

(6) The other documents put in on behalf of Travancore were directed to shew that the last Thachudaiya Kaimal managed the affairs of the temple. The earliest in date is XV dated 10th Madom 991 (the 20th April 1816) and the latest is IV dated 5th Mithunom 999 (the 16th June 1824). These documents do prove acts of management by the last Thachudaiya Kaimal.

6. This is all the evidence produced by Travancore and it will be seen that it fails to support the contention raised by Travancore, namely, that on the death of a Thachudaiyal Kaimal a requisition or request ought to be sent to Travancore to nominate a successor, and that it is not inconsistent with the case for Cochin. Document VII, the statement of the Yogakars purporting to have been made in 1828, came into existence under circumstances not disclosed in this enquiry. It seems to have been taken by some officer or agent of the Travancore Government during the dispute between the then Raja of Cochin and the Thachudaiya Kaimal as to which of them was entitled to have his birthday ceremony first performed in the Temple, the birthday of both being the same day. Document VIII on the face of it shews that it was taken with reference to this dispute.

Document VII does not contain any statement upon the precise question now raised. It is a statement which could have been easily procured ; and that it was procured in the supposed interest of Travancore appears probable from the representation which it contains, putting the rights of Travancore, as regards the temple, at the maximum which could be claimed and the rights of Cochin at the minimum. The statement that the management of the temple was vested in Travancore is not supported by the claim of Travancore in this case, the only right claimed being a right to nominate the Thachudaiya Kaimal upon a request from Cochin. The document further states that the Thachudaiya Kaimal is nominated and ordained by Travancore ;

but Travancore does not now claim a right to ordain, and the document does not mention that Cochin is to make the requisition or request for the nomination. The view expressed in VIII that the birthday ceremony of the Thachudaiya Kaimal ought to have precedence of that of the Raja of Cochin in the temple was overruled by the Resident, Colonel Morrison, who decided that the Raja's ceremony should have precedence. (Documents marked **H** and **J** filed on behalf of Cochin.)

The Arbitrator does not make any allusion to VII and VIII in his decision or say whether he thinks they are proved, but, taking them to be proved, their evidentiary value upon the question now in dispute is evidently of no importance.

7. For Cochin, reliance was placed on—

(1) **J**, a letter written to the Diwan of Travancore by Colonel Morrison, the Resident, dated the 7th August 1829, with reference to the dispute about the birthday ceremony above referred to. In paragraph 3, Colonel Morrison says : "The ceremony in question has from "time immemorial been performed on account of Cochin Rajas and cannot be interrupted by "the nomination of any Thachudaiya Kaimal *which is a casual occurrence*, while that nomination, "though made by Travancore, can only take place on an application from Cochin."

(2) **E**, dated the 11th September 1851, from the Diwan of Travancore to Major-General Cullen, the then Resident of Travancore. The Diwan of Travancore says : "I have but few "remarks to offer on the communication from the Diwan of Cochin. I am perfectly aware that "the selection of a Thachudaiya Kaimul does not take place until after the deputation of the "Nethya Yogam and the receipt of the customary Titurum from His Highness the Raja of "Cochin ; neither do I in any way deny that the presents made to the pagoda by His Highness "the Raja of Travancore become, as a matter of course, the property of the pagoda ; nor is "any claim whatever advanced to subsequent control over such gifts ; but that Travancore has "a strong interest in the prosperity of the pagoda under all the circumstances that have been "stated will hardly be questioned and the deputation of some confidential (Travancore) Sirkar "officer to the pagoda *during the long interval that is likely to elapse before a new Kaimal can be "selected and appointed*, appears quite unobjectionable. The authority of His Highness the "Raja of Cochin as a sovereign and a member of the Yogam has never been questioned for a "moment."

8. If, as now contended by Travancore, upon the death of one Kaimal another was to be nominated it is difficult to understand the meaning of the words italicised taken from **J** and **E** used by the Resident and the Diwan of Travancore.

9. Prior to the date of **E** and in the same year 1851 a question was raised between Travancore and Cochin upon a claim put forth by Travancore to interfere in the performance of a Kalashum (purification) ceremony in the temple. With reference to this dispute there is a letter marked N, dated 28th March 1851, from General Cullen, the Resident, to Kristna Row, the Diwan of Travancore, from which the following is an extract : "I must be strictly impartial and must be guided in any opinion by *documents* and clearly *acknowledged old usages*. "Nothing has been produced to me to prove the right of Travancore to publicly defray the "expenses or to interfere actively in any Kalashom ceremony. Every thing that I have read "serves to prove, on the contrary, that the Raja of Cochin has the sole power or prerogative of "ordering or authorising or conducting all such ceremonies. The pagoda is situate in the very "midst of the Cochin territory, the Raja regularly attends there at the annual festival in April "and remains for eight or ten days in a covilagum close to the pagoda with an honorary guard of "Company's sepoys, etc. The nomination of the Thachudaiya Kaimal by Travancore gives no "subsequent or consequent claim to interfere in the concerns of the pagoda."

10. Document **F**, dated the 29th August 1854, is a letter written by direction of the then Raja of Cochin by the Diwan of Cochin to General Cullen, the Resident, in reply to a communication from the Resident. The Resident seems to have received petitions from some of the Yogakars of the temple praying for the appointment of a successor to the last Kaimal who died in 1851. The petitions seem to have been promoted or supported by Travancore (see paragraph 4 of **F**). The Diwan of Cochin says in paragraph 2 of **F** : "His Highness has "directed me to inform you that, in his opinion, petitioners have no ground for requesting the "election of a successor to the late Thachudaiya Kaimal in Irinjalakuda pagoda, and that the "inference that might be drawn from their statements to the absolute necessity of the appoint-"ment of a Thachudaiya Kaimal is totally erroneous. The appointment of a Thachudaiya "Kaimal, His Highness directs me to observe, is only necessary at the time when the reconstruction "of the pagoda is required and that this is a well-known fact, for the intervals of time between "the deaths and appointments of Thachudaiya Kaimals have always been of long duration. For "instance, the first Thachudaiya Kaimal was appointed in 517 (1341–42 A. D.). and he died "in 559 (1383–84 A.D.). The second Thachudaiya Kaimal was appointed in 644 (1468 A.D.) and "died in 694 (1518–19 A. D.) Between the death of his predecessor and his appointment there "was an interval of about 85 years. The third Thachudaiya Kaimal was appointed in 903 "(1727–28 A.D.) or 209 years after the death of the second Kaimal and he died in 954 (1778–79). "His successor, who was the last Thachudaiya Kaimal, was appointed in 983 (1807–8 A.D.) or 29 "years after the death of his predecessor. At the time of these several appointments the "pagoda required reconstruction." This letter written to a Resident who had himself examined

the documents and endeavoured to ascertain the usages relating to this temple (*vide* **N**, an extract from which is set out in paragraph 9 of this paper) was evidently accepted by the Resident as containing a probably true statement of the facts, for **G**, dated the 11th September 1854, which is the endorsement signed by General Cullen made upon the petitions of the Yogakars, summarises the statements in **F** and concludes : "The petitioners will therefore see the propriety "of their explaining their wishes personally to His Highness." The petitioners do not however appear to have taken further action. Some of the statements in **F** relating to the Kaimals are admitted to be correct and especially the statement that the last Kaimal was not appointed for 29 years after the death of his predecessor and that at the time of the last appointment in 1807–8 the pagoda required reconstruction.

11. The other documents filed for Cochin shew acts of supervision or control exercised by Cochin in the affairs of the temple. **C** and **D**, letters from the then Resident Colonel Munro to the Raja of Cochin, shew that the Raja performed the Kalashom ceremony (purification ceremony) on the completion of the building and other ceremonies in 1817 when the rebuilding of the temple was finished. **A**, dated the 22nd April 1813, is a letter from Colonel Munro to the Raja of Cochin in reply to XII, a document filed by Travancore. XII, a Titturum or letter from the Raja of Cochin to Colonel Munro, dated the 4th April 1813, is as follows :—

"Since the demise of the last Maneshom (legal authority) appointed by us to the Irinjala- "kuda pagoda no successor was nominated and as one should now be appointed as the Kalashom "ceremony is close at hand I think of appointing Nanthikara Ramen to the place. As the "Kalashom is to come off on the 6th instant and as the presence of the Maneshom is necessary "for guarding the Kalashom mundapam I request you will be good enough to issue the neces- "sary instructions."

A, dated 22nd April 1813, is Colonel Munro's answer. He was then Diwan of Cochin and Travancore as well as Resident. It says : "I have received and understood the contents of "Your Highness' letter regarding the appointment of a person as Maneshom" (representative "of His Highness) "in the Irinjalaku Kshetram in the place of the one who is dead. I have "ordered the Mukundapuram Kariakar" (an officer of the Cochin Government) "to appoint a "man to the place who will meet Your Highness' wishes." Reference has already been made to the dispute about the birthday ceremony in 1828 and 1829. Some of the documents filed by Travancore, namely, IV, V, XIII, and XV and document **B** filed for Cochin show acts of control and supervision by the Raja of Cochin over the affairs of the temple in addition to the evidence above stated.

12. The question of management of the affairs of the temple was one not directly in issue in this case and it was not a question in dispute between Travancore and Cochin except indirectly. For the management of the affairs of the temple Travancore asserted a right to nominate a Kaimal, whereas Cochin maintained that the nomination was for the purpose of reconstructing the temple or part of it. When Travancore has nominated a Kaimal she is *functus officio* and has no further concern or authority in the management. She cannot remove the Kaimal for misconduct, neglect or breach of trust, or for any other cause and the Kaimal is not accountable to Travancore for his management or the manner in which he discharges his duties whatever they are. It was, however, a legitimate argument for Travancore to maintain that the appointment was made for the purpose of managing the affairs of the temple and thereby render probable the contention that on the death of one Kaimal Cochin was bound to ask for the nomination of another; otherwise no adequate provision would be made for management. The way in which Travancore put her case was "We have proved management by the last Kaimal. It is reason- "able to infer that the last Kaimal managed as of right, and further that what the last Kaimal "did his predecessor did. Finding that the Kaimals managed it is reasonable to infer that the "purpose of the appointment was management, and that therefore on the death of one manager "the nomination of a successor is necessary." From the fact of management by the last Kaimal all these conclusions are sought to be deduced, for no other evidence is offered to support them. But it may well be that a Kaimal when appointed was permitted or entitled to manage all or some of the affairs of the temple, subject to control or not subject to control, and yet that the primary or main object of the appointment was not management but something else. One can easily understand that a person appointed for the reconstruction of the building in circumstances of *eclat*, himself a sacred personage in connection with this temple, would acquire rights of management without hinderance or question. An ambitious pushing man might in one generation contrive to invest himself with great authority in such circumstances. But the argument for Travancore, founded upon management, must ignore the counter evidence and the inferences deducible therefrom. It also disregards admitted facts. The fact for instance that during the last one hundred years for 59 years, that is, 28 years prior to 1807–8 when the last appointment was made, and 31 years since 1850 when the last Kaimal died, there has been no Kaimal. In the statement filed for Travancore, dated 18th February 1881, signed by a Travancore Government Vakil, paragraph 12 (page 12 of the Printed Book), the "intermission" is stated to be 25 years between the death of the preceding Kaimal and the appointment of the last Kaimal (954 to 983). The statement says this intermission occurred "when the affairs of Travancore and Cochin were in utter confusion caused by the attempts "made by Hyder and Tippu to invade and subjugate these territories." But Tippu invaded Malabar in 965 (1789), destroyed

the Irinjaladuda pagoda in 965 (1789–1790) and was finally expelled from the country in 966 (1790–1791). See Garrett's History of India, Fourth Edition, pages 308, 311, Morris's History of India, Fifth Edition, pages 127, 129, History of Travancore by P. Shungoonny Menon, pages 227, 233. The interval which was 29 and not 25 years between the death of the preceding Kaimal and the appointment of the last Kaimal is, therefore, not very satisfactorily accounted for.

13. It is necessary to deal with an argument put forward by Travancore and adopted by the Arbitrator in paragraph 15 of his decision (page 17 of the Printed Book). "It is not reasonable "to suppose that the appointment of a Kaimal was merely for the purpose of rebuilding a small "portion of the temple for such work could not have occupied the long periods wherein the two "last Kaimals held office amounting, according to Cochin's own admission (in **F**), to 94 years." But the appointment did not profess to be founded upon what would be regarded as reasonable grounds. It had a supernatural foundation. Page 10 of the Printed Book, paragraphs 2 and three of the statement of Travancore, sets out the tradition relating to this matter and it will be evident that it would account for any existing state of things in this temple reasonably proved to exist. Then the very name Thachudaiya (Kaimal) points not to a manager but to a person connected in some way with building. In the statement for Travancore paragraph 4 (page 10 of the Printed Book) it is said "The compound word 'Thachudaiya' (the component parts of which, viz., Thatchoo = building and Oodaya = ownership) means the owner of the building, in present instance, the pagoda." The correct interpretation is believed to be :—Tachu = Carpentry and Udaya — Chief, but whichever is the right interpretation the name is connected with a building. Further, it is admitted that at the time of the last appointment the temple (destroyed by Tippu) was in course of building and in the Agreement of 981 (1805, between Travancore and Cochin (Exhibit VI), in pursuance of which the last appointment was made, it is expressly stated to be "for the completion" (or reconstruction) "of the pagoda work at Irinjalakuda." Here, adopting the argument of Travancore founded upon proof of management by the last Kaimal, the circumstances and purpose of the last appointment being proved it is reasonable to infer that previous appointments were made under like circumstances and for a similar purpose. Without here calling in aid document **F**, to which reference has already been made, there is nothing improbable in the contention of Cochin upon this head.

14. It was stated for Cochin in the proceedings before the Arbitrator (see Proceedings of the Arbitrator on the 8th February 1881, page 8 of the Printed Book) repeating the statement in **F**, that there had been only four Kaimals for the temple. The statement for Travancore (same page) was "we are not prepared to say how many Kaimals there were prior to 941" (1765) "as "Tippu, subsequent to 941, destroyed the pagoda and we have no records in our possession, "Cochin having taken possession of everything on the death of the last Kaimal." Possibly the destruction of the pagoda destroyed evidence which would shew how many Kaimals there had been, but notwithstanding this it is strange that Travancore has no knowledge or belief as to the number, and that she is not in a position to contradict the precise statement contained in **F**. The records of the pagoda would no doubt perish with the building, but this does not explain the non-production of certain evidence by Travancore. The Titturums addressed by the Rajas of Cochin to the Rajas of Travancore requesting the nominatian of Kaimals would in the ordinary course of things be kept at Trivandrum and might probably have been produced if it were in the interest of Travancore to produce them. Their non-production is not accounted for, for the temple was not the proper or probable place of custody for them and the destruction of the temple in no way accounts for their non-production. It is not suggested that the records of the Travancore State were destroyed by Hyder or Tippu or any one else.

The Arbitrator's Decision.

15. In paragraph 9 (page 17 of the Printed Book) the Arbitrator makes the following statement: "Referring to the treaty of 941 (1765) it appears that each State owned pagodas "(the word pagoda including endowments) within the territory of its neighbour and it had been "customary for each State to appoint persons to conduct the concerns of its pagodas so situated "and this practice had (naturally enough) been found inconvenient. It was consequently "agreed that, with certain exceptions, each State should nominate managers to the pagodas "and Coilma Sthanoms situate within its own territorial limits. *One of these exceptions is the "Sthanom of Thachudaiya Kaimal in Irinjalakuda* which is stated to have belonged of old to "Travancore and the appointment of Kaimal is to continue with Travancore." To the words in the italics the appellant takes exception as not justified by the construction of the document (Nos. I and II) or the facts of the case. The appellant does not admit the correctness of the translation of I and II as rendered by Travancore, except the part thereof relating to the Irinjalakuda pagoda which is believed to be correct, but for the purposes of this case the appellant does not raise any objection to the translation. Upon reference to I and II it will be seen that paragraph 2 of I beginning at the word "Accordingly" and ending with "other Coilmasthanoms" contains the operative words of the Agreement, and the exceptions are contained from line 3 of the paragraph beginning with the words "Save the Sthanom in Pallipuram" to the words "Annamanada pagoda" in line 9 of the paragraph. The last sentence in the paragraph which refers to this temple (the Irinjalakuda Thachudaiya Kaimal's Sthanom) is not treated as an exception but constitutes a separate agreement relating to a separate matter.

Document II, the counterpart of I, is not turned into paragraphs as is No. I, but the construction is equally clear and does not support the Arbitrator's view. Neither do the facts of the case support it, for the Irinjalakuda pagoda was not a pagoda belonging to Travancore situated within the territory of Cochin, for as has been more than once observed Travancore has never claimed the pagoda as "belonging to us." The Thachudaiya Kaimal's Sthanom (office) was and is claimed by Travancore, but this a very different claim from a claim to the pagoda itself.

16. It is submitted that the construction put by the Arbitrator upon the treaty of 941 (1765) I and II is not correct, but upon the construction so placed upon it by the Arbitrator a cogent part of the reasoning in the paragraphs following down to paragraph 14 of the decision is founded. Paragraph 11 of the decision says "When the treaty of 941 (1765) was entered "into there was a Kaimal in office (*vide* F) who must have been appointed by Travancore and as "the treaty of 941 (1765) (Exhibits I and II) distinctly refers to the management of the various "religious endowments it is only reasonable to infer that the management of the temple" (Irinjalakuda) "was under him as nominee or agent of Travancore." Paragraph 12 of the decision is:—"The temple was in Cochin territory, the lands with which it was endowed "were chiefly situate in Cochin and the temple officers were subject to the civil and criminal "jurisdiction of Cochin, but the nomination of an agent to manage the affairs of the temple "was vested in Travancore and that agent was to manage the affairs of the temple as hereto-"fore." The answer to this seems to be that the treaty of 941 (1765) so far as it refers to this temple consists of 26 words and there is no word in it providing or pointing to the management of the affairs of the temple: still less to management by the "nominee or agent of Travancore." If the view of the Arbitrator of the treaty of 941 (1765) stated in paragraph 9 were correct the conclusion stated in paragraph 11 of the decision would be open to grave exception, for if "the treaty of 941 distinctly refers to the management of various religious endowments" as stated by the Arbitrator in paragraph 11 of the decision and no such distinct or other reference is made to the management of this endowment (as is clearly the case) then the conclusion ought to have been different from that come to by the Arbitrator and stated by him at the end of the paragraph.

17. The argument in paragraph 13 of the decision is intended to strengthen the conclusion already stated and the last line and a half of the paragraph assumes the whole question.

18. The end of paragraph 15 "that the Travancore nominee had entire management and "control of the whole of the temple concerns and endowments and was no more subject to Cochin "in regard to that management and control than any jenmi (proprietor) subject of the State," is not supported by the evidence, nor does the Arbitrator refer to any evidence as tending to support his view. The use of the words "agent" and "nominee" of Travancore as descriptive of the position of the Kaimal is misleading. The Kaimal was not the "agent" of Travancore in the legal or popular sense of the term. The Kaimal owed no duty to Travancore, and was not accountable to Travancore and if the Kaimal was an Agent Travancere was certainly not the principal. In one sense the Kaimal was the nominee of Travancore, that is to say he was nominated by Travancore and if approved of by Cochin and appointed he became Kaimal, but once appointed he owed no duty or submission or obedience, as regards the temple affairs, to his nominator. Unless the temple and its endowments can be said to be the private property of the Kaimal and passing by inheritance as private property to his successors in office, a view to which the evidence gives no support, the suggestion that the position of the Kaimal is the same as any jenmi does not appear to be well founded and it may lead to complications hereafter. The Kaimal, whatever his rights may be, is in the nature of things a trustee and manager for whoever has the beneficial interest, whether the general public, or a portion of the community or the worshippers, or the State, or the Raja of Cochin, and the assumption that the Kaimal is not accountable for breach of trust or mismanagement or neglect of duty is not only not borne out by the evidence but it is opposed to the ordinary conception of legal obligation.

19. Paragraph 16 of the decision of the Arbitrator says "I assert that there is no evidence "shewing that during his tenure of office Cochin (or Travancore either) exercised one single act "showing proprietary rights over the devaswom property. If it be said that documents XII "and A shew an interference I would reply that Colonel Munro (who, was I believe, at that "time Diwan of Travancore) in reply to the Raja of Cochin's request, did not promise to "appoint the Raja's nominee but said that he would direct the Kariakar to appoint a suitable "person. As to the question of the Kalashom ceremony it has nothing to do with the case. It "was a mere question of precedence which the Resident thought proper to decide in the Raja's "favour." In this paragraph the Arbitrator does not give due effect to XII and A. These documents are set out in full in paragraph 11 of this paper. At the time they were written Colonel Munro was Diwan of Cochin as well as of Travancore. XII shews that the Raja of Cochin had a Maneshom or representative at the temple appointed by him and one of whose duties was to guard the Kalashom mandapam (a part of the temple) and upon his death the Raja intended to appoint Nanthikara Ramen to the place and requested Colonel Munro to issue the necessary instructions. Colonel Munro says in reply that he has ordered the Kariakar (a servant of the Raja of Cochin) to appoint a man who will meet the Raja's wishes. Whether the man appointed was Nanthikara Ramen or not makes no difference, for whoever was appointed was a person who would be acceptable to the Raja of Cochin. Therefore this

transaction does show interference in the management of the temple by the Raja of Cochin at least. The Kalashom (purification) ceremony performed on the opening of the temple was performed by the Raja of Cochin without question or opposition in 1817 and when in 1851 Travancore attempted to perform a Kalashom ceremony the claim was disallowed by the Resident, who stated that the Raja of Cochin had the sole power of conducting *all* such ceremonies. (N, from which an extract is given in paragraph 9 of this paper). The ceremony as to which precedence was given to the Raja of Cochin by the decision of the Resident was not the Kalashom (purification) ceremony but the Kalabhom (or birthday) ceremony and the fact of the decision of the Resident as well as the grounds of it already quoted in this paper from H and J goes to show that the Raja of Cochin had rights in the temple which the Arbitrator does not recognise.

20. In paragraph 18 the Arbitrator "decides" that the Kaimal is the manager of the pagoda and its endowments; that he is the nominee *and* agent of Travancore but is subject to the civil and criminal jurisdiction of Cochin; and that Cochin has no right of interference whatever in the affairs spiritual or temporal of the pagoda save such as may pertain to the office of Yogakar. These points were not points calling for "decision." In order to have a binding "decision" upon them the Kaimal, the Yogakars and all other persons having or claiming an interest in the temple ought to have been parties to the Arbitration How can this decision bind persons not parties to it? If the decision had been the other way, would future Kaimals be bound by it although neither they nor any predecessor of theirs in office had an opportunity of stating their case or producing their evidence. That the Kaimal was the nominee or agent of Travancore is a position not asserted by Travancore in the pleadings in this case, or if it has been, there is no evidence or no sufficient evidence to support it. The weight of the evidence given, as well as the contentions of Travancore in the various statements put in before the Arbitrator, negatives the view of the Arbitrator. The civil and criminal jurisdiction of Cochin was not a question in dispute or referred to the Arbitrator (see paragraph 17 of the decision) and was not a question for decision. Neither was the future right of Cochin or the Yogakars to interfere in the affairs of the temple a question in dispute or referred to the Arbitrator or one calling for a decision. Looking to the words of the decision it is not easy to say what right the Raja of Cochin would have hereafter to perform ceremonies in the temple such as purification, birthday and other ceremonies. and yet there is not a trace in the proceedings that any question regarding such ceremonies was submitted to the Arbitrator or was a matter in dispute between the States of Travancore and Cochin. As has been already pointed out the question in dispute and submitted to arbitration is whether the Raja of Cochin is now bound to send a Titturum to the Raja of Travancore requesting the nomination of a Kaimal. All the other points raised were raised as incidental to this question and as tending to show how it ought to be determined.

21. The claim of Travancore is an unsubstantial one, even if well founded, for it is to compel the Raja of Cochin against his wish and judgment to ask for that which he does not want, and yet the Raja of Travancore is not bound to comply with or even to take any notice of the request.

For these reasons it is prayed that the decision of the Arbitrator may be reversed and such order made as to His Excellency in Council may seem fit.

A plan of the Irinjalakuda temple, certified by a competent surveyor to be correct and shewing the position of the Sreecovil (sacred building), is herewith sent.

Order—No. 540, Political, dated 17th November 1909.

A dispute between the Travancore and Cochin Darbars regarding the Thachudaiya Kaimal Stanom of the Irinjalakuda pagoda was decided by arbitration in 1881, and the decision of the arbitrator was confirmed by the Government of Madras in G.O., No. 547, Political, dated 25th November 1881. The arbitrator decided that the Thachudaiya Kaimal was the manager of the Irinjalakuda pagoda and its endowment; that he was the nominee and agent of the Travancore Darbar, but was subject to the civil and criminal jurisdiction of the Cochin State; and that the Cochin Darbar had no right of interference whatever in the affairs, spiritual or temporal, of the Irinjalakuda pagoda, save such as might pertain to the office of Yogakar or Uralar held by His Highness the Raja of Cochin conjointly with certain Nambudries.

2. In the year 1904 the Cochin Chief Court decided by a majority that the Thachudaiya Kaimal was incompetent to sue on behalf of the Devaswom. He is consequently not in a position to collect rents from refractory tenants or to exercise, with the support of the law, the powers of "manager of the Irinjalakuda pagoda and its endowments." The Travancore Darbar contend that the effect of the Chief Court's decision is to set aside the decision of the arbitrator which gave the Kaimal the managership of the pagoda and its endowments, and that it is the duty of the Cochin Darbar to enforce the arbitrator's award. The Cochin Darbar reply

that disputes between the owners of the temple on the one hand and the manager on the other regarding matters incidental to the administration of the properties of the pagoda are disputes for adjudication by the municipal courts of the State having sovereign jurisdiction and that the executive Government of no State can have any manner of control over the decision of duly constituted courts of justice. The Cochin Darbar accordingly contend *in limine* that there is no case for submission to the Madras Government while the Travancore Darbar appeal to the Madras Government for a decision.

3. The first two points for the decision of the Madras Government are—

(1) Whether the point now in issue is politically a decided case, questions about this particular temple having been decided by Mr. Hannyngton, an arbitrator appointed by them to decide these subject to their confirmation in 1881, and his decision having been confirmed by them;

(2) Whether, if it is not a decided case, it is nevertheless a case involving the interpretation of treaties and so not one for the municipal courts of Cochin.

If the first question is decided in the negative and the second in the affirmative, it will be necessary (thirdly) for the Madras Government to consider whether the treaties as interpreted by them require that they should advise the Cochin Darbar to rectify, by legislation, the decision of the Cochin Chief Court.

4. The first question is: *was the case decided by arbitration in* 1881? Paragraphs 15 and 18 of the arbitrator's decision are as follows:—

15. It is not reasonable to suppose that the appointment of Kaimal was merely for the purpose of rebuilding a small portion of the temple, for such a work could not have occupied the long periods wherein the two last Kaimals held office, amounting, according to Cochin's own admission, to ninety-four years, and such a supposition is entirely negatived by the conduct of the temple during the tenure of office of that last Kaimal from 983 to 1026 during which it is evident that the Travancore nominee had entire management and control of the whole of the temple concerns and endowments and who was no more subject to Cochin in regard to that management and control than any janmi (proprietor) subject of the State.

* * * * *

18. I decide therefore that the Thachudaiya Kaimal is the manager of the Irinjalakuda pagoda and its endowments.

That he is the nominee and agent of Travancore, but is subject to the civil and criminal jurisdiction of Cochin.

That Cochin has no right of interference whatever in the affairs, spiritual or temporal, of the Irinjalakuda pagoda, save such as may pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Nambudries.

And I decide that on or before the 26th day of September 1881 His Highness the Raja of Cochin do send, according to usual custom, Titurum to the Raja of Travancore with a Yogakar requesting the nomination of a Tahchudaiya Kaimal to the pagoda of Irinjalakuda. This last order being of course subject to suspension by order of the Government of Madras to whom an appeal lies.

The finding in paragraph 18 merely states that the Kaimal is the manager of the pagoda. It does not describe the nature of his powers of management, which is the point now at issue. It is true that in paragraph 15 Mr. Hannyngton remarks that the Kaimal "had *entire* management and control of *the whole* of the temple *concerns and endowments.*" This, however, is not a part of the decision but an *obiter dictum*. Mr. Hannyngton was only deciding as to the right of nominating the Kaimal. The Government accordingly hold that the point now in question was not decided by arbitration in 1881, but that the weight of the arbitrator's authority nevertheless lies on the side of the view of the facts that the Kaimal had complete control over the temple and its endowments.

5. The second question is: *Does the case involve the interpretation of treaties?* The arbitrator states:—

(5) The subject of dispute has been referred to in two treaties or agreements between the States, dated respectively 941 M.E. (1765 A.D.) and 981 M.E. (1805 A.D.).

(6) The claims of both States being based on these treaties it is necessary to examine them carefully in order to conclude the intention of the contracting parties. . . .

The treaties or relevant portions of them are as follows :—

A.—Treaty of 1765.

I.—*Counterpart executed by Travancore.*

In the treaty entered into between us at Shertalay on the 12th Dhanu 937 * it was agreed that you yourself should appoint persons to conduct the concerns appertaining to the pagodas and to the coilmastanams belonging to the Peroompadappoo Swaroopom (Cochin), and situated within the limits of our territories, and that we ourselves should appoint persons to conduct the concerns appertaining to the pagodas and to the coilmastanams belonging to Paroor and Aulungaud and Thekoomakoor and Vadakoomkoor (Rajas whose territories have been acquired by us) and situated within the limits of your territories; and as we apprehend that this state of things will tend to daily disputes, because, of the misconduct of the nominees of both the States, and as it has been agreed that it would be better that each of us should appoint persons to conduct the pagoda concerns and to the coilmastanams situated within the limits of our respective territories.

* 1761 A.D.

Accordingly from Chingom 941, of the coilmastanams belonging to us within the limits of your territories, save the stanam in Pallipuram, Purattur and Perinchary desams set apart for the Oochapooja ceremony of the Perumanom pagoda, the Aga Coilma of Ellengoonnapolay, the coilmastanam of Nedoomgaud, the coilmastanam of Addoor gramom, the Samudayastanam of the Annamanada pagoda—you yourself should appoint persons to conduct the pagoda concerns and other coilmastanams. *As the Irinjalakuda Thachudaiya Kaimal's Stanam belongs exclusively to us from times of old you shall permit it to be conducted in accordance with past usage.*

Thavari will read this for the information of the Peroompadapoo Moopil (Raja of Cochin).

In the handwriting of Kanakoo Ananja Perumal Ananja Perumal Valia Meleloothoo dated 24th Cunny 941.

II.—*Counterpart executed by Cochin.*

In the treaty entered into between us at Shertalay on the 12th Dhanu 937 it was agreed that we ourselves should appoint persons to conduct the concerns appertaining to the pagodas and to the coilmastanams belonging to us and situated within the limits of your territories, and that you yourself should appoint persons to conduct the concerns appertaining to the pagodas and to the coilmastanams belonging to Paroor and Aulungaud, and Thekoomkoor and Vadakoomkoor (Rajas whose territories have been acquired by you) and situated within the limits of our territories. And as we apprehend that this state of things will tend to daily disputes owing to the misconduct of the nominees of both the States, it has been agreed that it would be better that each of us should appoint persons to conduct the concerns appertaining to the pagodas and to the coilmastanams situated within the limits of our respective territories. Accordingly from Chingom 941 you yourself should appoint persons to conduct the concerns appertaining to the pagodas and to the coilmastanams belonging to us within the limits of Paravoor and Aulungaud, etc., territories which have been acquired by you. Of the coilmastanams acquired by you within the limits of our territories, you yourself will appoint persons to the stanom in Purattur, Pullipuram and Perinchery desams set apart for the Oochapooja ceremony of the Perumanom pagoda, to the Aga Coilma at Ellengoonnapolay, to the coilmastanam of the Nedoomganaud desom, to the coilmastanam of Uddoor Gramom and to the Samudayastanam at Annamanaday, and cause them to conduct their affairs according to past usage. We ourselves shall appoint persons and conduct the concerns appertaining to the pagodas and to the coilmastanams acquired by you within the limits of our territories with the exception of those above named. *As the Irinjalakuda Tachudaiyan's stanam belongs to you of old we shall permit it to be conducted according to past usage.* This will be read by Poodoosheri for the information of Coolashekara Perumal (Maharaja of Travancore).

In the handwriting of Powathil Ambidi dated 24th Cunny 941.

B.—Clause VII of the Treaty of 1805.

It has been agreed that His Highness the Raja of Cochin should as usual send a Thituram along with the Yogakar requesting the nomination of a Thachudaiya Kaimal for the completion of the pagoda work at Irinjalakuda and that the said Kaimal should be appointed and the building completed and that *the Devaswom affairs should be allowed to be managed as heretofore.*

It was decided by the treaty of 1765 that the temple management should be "conducted according to past usage," and by the treaty of 1805 that the temple affairs should "be managed as heretofore." It therefore appears to the Government that the present question (which is what is the manner of that management) is one of interpretation of treaties and is a political question, not a question for the Cochin courts.

6. The third and most difficult question still remains, that is, what was the usage referred to in the treaties. As Mr. Hannyngton observed (paragraph 8 of his decision) it is not easy to construe the treaties, because there is no evidence showing what "the past usage" was, and it is only possible to decide on probabilities. His own view has already been referred to. It is also that of one of the Judges of the Cochin Chief Court, Mr. Justice Krishna Menon. The view of the majority in the Cochin Chief Court, that the Kaimal was only an ordinary samudaya, seems to be contrary to the probabilities. The Kaimal is a specially consecrated dignitary who assumes the name of, and is in some sort identified with, the deity of the temple; and it may be observed that in the treaty of 1765 the temple is referred to as the "Thachudaiyan's," while other temples mentioned are not referred to as belonging to their managers. It might be inferred from the wording of the treaty itself that the Thachudaiya Kaimal's position was special and higher than that of an ordinary samudaya; and the same thing may be inferred from the title itself, which means the Temple Lord or Prince; an ordinary manager would apparently not be called by a title, which, in the 18th century when the treaty was made, was assumed by the smaller temporal potentates of Malabar. The probabilities appear to the Madras Government to be that, under "the past usage" referred to in the treaty of 1765, the "Temple Prince" had full rights of management. Moreover a similar opinion is recorded in the findings of the Sub-Judge of South Malabar in Second Appeal No. 718 of 1904 which was accepted by the Madras High Court on the 5th of August last. The issues on which the Sub-Judge recorded findings are—

(1) Whether the Yogam or members of the Yogam are interested in the suit property and, if so, what is the nature of that interest, and

(2) Whether the Kaimal is or is not a trustee.

The findings are as follows :—

"From the documents considered above, it is pretty clear that the Thachudaiya Kaimal has been all along dealing with devaswom properties and managing the devaswom affairs as the absolute representative of the devaswom and that he has been recognised by the outside public all along, and on some occasions by some members of the 'Yogam' as the rightful representative of the devaswom. There is no documentary evidence to show that the Yogam has any proprietary interest in the devaswom property. Exhibit X (the avarodha-grandham) does not show that the Yogam has any proprietary right to the devaswom properties. It simply shows that they are, according to usage, entitled to take the initiative in the matter of the nomination of a Thachudaiya Kaimal by Travancore on the occurrence of a vacancy in that office. There is no indication in any of the documents on record of any right in the Yogakars in regard to devaswom properties. There is not the slightest mention of any such right in the Yogakars in any of the numerous communications which through a long period passed between the Diwans of Travancore and Cochin on one side and the British Resident on the other side regarding the management of the devaswom. The unsupported statementof defendants' witnesses that the Yogakars are the owners of the devaswom is absolutely worthless and is shown to be false by the large mass of documents produced on plaintiffs' side. What the evidence on record shows is that the management of the devaswom properties has been throughout carried on by the Thachudaiya Kaimal except during the period of the *interregnum* between the years 1026 and 1057, when the management was taken up by the Cochin Sircar as the office of Thachudaiya Kaimal was vacant. From 1841 to 1851 and from 1082 up to the present day Thachudaiya Kaimal has been dealing with devaswom properties as the absolute representative of the devaswom. The term "ഉടമ" (owner) used in describing him in the documents already discussed is in accordance with his character as the representative of the deity in whom the ownership of the devaswom properties is vested. His true legal character is that of a *trustee* entitled to the absolute management of the devaswom, in his own right as the representative of the deity. The Yogakars have merely the right to take the initiative in the appointment of the Thachudaiya Kaimal by the Travancore Maharaja, but do not possess any proprietary interest in respect of the properties of the devaswom. No doubt they have some interest in the spiritual concerns of the devaswom and are entitled to perform the theverseva and panchasandha ceremonies in the temple. This, however, does not give them any right to interfere in the management of the temporal concerns of the devaswom. Their true legal position appears to be that of a body of Brahminical hierarchy in whom is vested, according to usage, the right to see that the spiritual and temporal interests of the devaswom do not fail by a vacancy in the office of Thachudaiya Kaimal. They are interested in the upkeep of the worship in the temple and have got a right to hear the accounts of the devaswom read out to them in the temple by the accountant of the Thachudaiya Kaimal. This is all their right. They have no proprietary interest in the properties of the devaswom. The only right which they possess is what I have already described and this does not in my opinion make them interested in the suit property within the meaning of

section 85 of the Transfer of Property Act. I find accordingly on the first issue referred to me that the "Yogam" has no proprietary interest in devaswom property, that the only right which they have is the right to take the initiative in getting a Thachudaiya Kaimal appointed by the Travancore Maharaja for the devaswom when there should be a vacancy in that office to have the accounts of the devaswom read to them by the accountant of the Thachudaiya Kaimal in the temple, to perform the ceremonies called theverseva and panchasandha in the temple, and to see that the spiritual interests of the temple are properly kept up. They have no interest in the suit property such as entitles them to be made parties to the suit. I find the first issue accordingly in the negative.

On the second issue I find for the reasons already stated that the Thachudaiya Kaimal is in law the trustee of the devaswom. The evidence on record shows that he has been all along managing the devaswom properties as the rightful representative of the devaswom without any interference on the part of the "*Yogam*". Though in some documents he is styled the proprietor of the devaswom properties, the description in those documents taken as a whole simply shows that he is the representative of the devaswom and as such, the person in whom the properties of the devaswom are legally vested. The fact that he is not described as *Uralan* in the documents relating to devaswom is of no consequence, because the usages and designations relating to this devaswom are unique and have nothing in common with those applicable to the ordinary devaswom in British Malabar. It has been decided by the Privy Council that the rights regulating particular public religious institutions in India depend upon their own particular circumstances and have to be deduced from the history of their foundation and immemorial usage. Such being the case the non-mention of the word *Uralan* in connection with the Thachudaiya Kaimal is not by any means a ground for holding that he cannot be regarded as the trustee of this particular religious institution. On the evidence on record, I am of opinion that his true legal position is that of a trustee of the devaswom. I find accordingly on the second issue that the Kaimal is the trustee of the devaswom.

7. To sum up the Government are pleased to decide—

(1) That the status of the Kaimal is a political question arising out of the treaties between Travancore and Cochin of 1761, 1765 and 1805;

(2) That it was not settled in Mr. Hannyngton's award as arbitrator in 1881; and

(3) That the Cochin Darbar is under treaty obligation to allow the devaswom affairs to be managed as heretofore and that for this reason the finding even of the Supreme Court of the Cochin State cannot be accepted as final. If the final decision of the Cochin courts is contrary to the usage which under treaty the Darbar is bound to maintain, the Darbar is bound by the treaties to correct by legislation the decision of the courts.

(4) His Excellency in Council further finds that the Kaimal had, when the treaties were made, full power of managing the pagoda and its endowments.

8. The Resident should communicate a copy of these proceedings to both Darbars, and advise the Cochin Darbar to restore to the Kaimal by legislation or proclamation the powers of which he has been found to have been deprived by the judicial decision of the Cochin Chief Court. The Kaimal will of course continue to be subject to the civil and criminal jurisdiction of the Cochin courts, and the proposed legislation would be merely declaratory of his rights, as a subject of the Cochin Darbar and under the laws of the Cochin State, to manage the pagoda and its endowments.

9. It is very desirable that disputes between the Darbars should be settled quickly and amicably in and this, as in other cases, the proper procedure to that end, viz., that of a reference to the Madras Government, has been adopted. The question referred to the Madras Government in this case is one of considerable difficulty and obscurity, but His Excellency in Council has devoted much time to its consideration, and he hopes that the Cochin Darbar will take immediate steps to give effect to the decision, which settles a dispute of long standing, and will transmit a draft of the proposed regulation or proclamation in due course to the Resident.

(True Extract.)

M. S. Meyer,
Chief Secretary.

To the Resident in Travancore and Cochin.

NOTES TO G.O., No. 540, POLITICAL, DATED 17TH NOVEMBER 1909.

[SUBJECT.—*Dispute regarding Tachudaiya Kaimal Stanam of the Irinjalakuda temple in the Cochin State.*]

Previous papers.

G.O.,	189,	*Political*,	*24th March*	1875.
,,	643	,,	*13th Dec.*	1878.
,,	440	,,	*28th Sept.*	1880.
,,	481	,,	*29th Oct.*	,,
,,	90	,,	*18th Feb.*	1881.
,,	181	,,	*2nd April*	,,
,,	251	,,	*10th May*	,,
,,	458	,,	*23rd Sept.*	,,
,,	57	,,	*30th Jan.*	1882.
,,	504	,,	*8th Oct.*	1907.
,,	326	,,	*17th July*	1909.

I

From the Resident in Travancore and Cochin, dated 11*th May* 1907, *No. C.* 220.

II

Official-Memorandum No. 865–1, *Political, dated* 5*th June* 1907, *to the Resident in Travancore and Cochin.*

III

From the Resident in Travancore and Cochin, dated 20*th May* 1909, *No. R.O.C.* 220/07.

IV

From the Resident in Travancore and Cochin, dated 11*th August* 1909, *No. Dis.* 322.

V

Telegram to the Resident in Travancore and Cochin, dated 12*th August* 1909, *No.* 573.

VI

Telegram from the Resident in Travancore and Cochin, dated 17*th August* 1909.

VII

Letter from the Resident in Travancore and Cochin, dated 18*th August* 1909, *No. R.O.C.* 220.

The Resident in Travancore and Cochin refers, for the orders of Government, a dispute between the States of Travancore and Cochin regarding the Thachudaiya Kaimal Stanom of the Irinjalakuda temple situated in the Cochin State. Thachudaiya Kaimal is a temple dignitary appointed by His Highness the Maharaja of Travancore to perform certain functions in connection with the temple referred to above. The point in dispute is whether the Kaimal's functions include that of the management of the affairs of the temple. It is still further reduced to the question whether he has the power to sue for the recovery of rents due to the temple. To understand the nature of the dispute a knowledge of the old correspondence relating to the rights exercised by each chief in respect of certain temples situated in the other's territories would be helpful.

* 1761.

2. In 937 * M.E. the Raja of Cochin, whose territories had been invaded by the Zamorin, applied to Travancore for assistance. The two States accordingly entered into an agreement by which Cochin, in return for the assistance given her, was to cede to Travancore some of her territory. The agreement also embraced other matters one of which related to Koimah stanams or temple dignities regarding which in the Theetoorum from His Highness the Raja of Cochin to His Highness the Raja of Travancore it was declared that "all such Koimah stanoms (pagoda "dignities) as are appertaining to you "and extent within our territories shall be maintained intact as heretofore."

Exhibit G in green pamphlet in G.O., 55, Political, 23rd January 1883.

The Travancore State executed a similar document regarding Koimah stanoms appertaining to the Cochin State within Travancore territory. The arrangements regarding these Koimah stanoms did not work smoothly. The two States therefore entered into a fresh agreement in 941 † M.E. In the Theetoorum of His Highness the Raja of Cochin it was stated :—

Exhibit H in green pamphlet in G.O., 55, Political, 23rd January 1883.

† 1765.

"Whereas in the engagement entered into between us both at Cherthala under the date "12th Dhanu 937, it was arranged that the "'Kshethra-sammandoms' and 'Koimah "'stanoms' possessed by us within the terri- "tories held by you shall be kept up by the agents nominated by ourselves, and that such "'Kshethra-sammandoms' and 'Koimah stanoms' as are appertaining to you and within our "territories . . . . shall be kept up by agents nominated by yourself.

Exhibit I in green pamphlet in G.O., 55, Political, 23rd January 1883.

"And whereas now after due consideration it having appeared that such arrangements "are likely to give rise to constant disputes between both the parties, from the irregularities of "subordinate servants and in order to prevent such results, it having been found advisable that "the 'Kshethra-sammandams' and 'Koimah stanoms' that are extant within our respective "territories should be kept up by our own respective agents;

"It is hereby agreed that you will accordingly adopt measures so that from Chingam "941, the 'Kshethra-sammandoms' and 'Koimah-stanams' which are within your territories, "Paroor and Alengad and which are appertaining to us, may be kept up through your own "agents and of those 'Koimah-stanams' appertaining to you which are within the territories "held by us, those 'stanams' which are known as Peroomanatha Oocha Puja cherical . . . . 'may likewise as per former custom be kept up by you through your own agents — whilst the 'remaining 'Kshethra-sammandoms' and 'Koimah-stanams' belonging to you shall be kept 'up by us through our own agents; and as the stanam of Thachoodaya Kaimal of Eringalakooda 'belongs to you of old it shall be maintained according to former usage."

3. The agreement of 941 M.E. by which it was thought more suitable arrangements would be made for the management of these temples proved just as ineffective as the agreement of 937 M.E., to prevent disputes between the two States regarding the management and administration of these temples.

4. In 1880 the States of Travancore and Cochin, which had several disputes regarding the boundaries of their territory and other matters of contested sovereignty, entered into an agreement for the settlement of these disputes, and they consented, subject to certain exceptions, to accept the final arbitration of an officer to be appointed by the Madras Government. As regards the cases which were excepted the Darbars agreed to abide by the finding of the arbitrator subject to an appeal to the Governor in Council, provided such an appeal was preferred within six months from the date of the announcement of the arbitrator's finding. The dispute regarding the Thachudaiya Kaimal stanam of the Irinjalakuda pagoda was one of the cases falling under this arrangement. The Government accordingly appointed Mr. J. C. Hannyngton, District and Sessions Judge, Salem, to act as arbitrator between the two Darbars.

G.O., 481, Political, 29th October 1880.

G.O., 643, Political, 13th December 1878.

G.O., 481, Political, 20th September 1880.

G.O., 481, Political, 29th October 1880.

5. In the statement put forward by the *Travancore* Darbar regarding the Irinjalakuda pagoda, they declared that the right of appointing persons to the office of Thachudaiya Kaimal to manage the affairs of the pagoda vested in the Maharaja of Travancore from ancient times, and that the right had been acknowledged and formally settled between the two Governments under the treaty of 941 M.E. The *Cochin* Darbar, on the other hand, contended that it was not customary as soon as one Thachudaiya Kaimal died to appoint another in his place, and that the appointment of a Thachudaiya Kaimal was only necessary when the reconstruction of the "Shri-kovil" and "Gbirba-grahom" of the pagoda was required. It was further alleged that the necessity for the appointment of a Thachudaiya Kaimal arose on only four occasions since the foundation of the pagoda. The Cochin Darbar based their statement, that the Thachudaiya Kaimal was appointed only when the pagoda required reconstruction, on clause VII of an agreement entered into between the States in 981 M.E., which declared: "It has been agreed that His Highness "the Raja of Cochin should as usual send "a Theetooram along with the Yogakar requesting the nomination of a Thachudaiya "Kaimal for the completion of the pagoda work at Irinjalakuda and that the said "Kaimal should be appointed and the building completed and that the Devaswom "affairs should be allowed to be managed as heretofore." The Cochin Darbar relying on the above clause also claimed that Travancore had no right to send a Thachudaiya Kaimal on its own accord and that such an appointment could be made only after an application had been received from Cochin for the making of the appointment. Both the States agreed that their rights were determined by the treaties of 941 and 981 M.E. The Travancore Darbar also asserted that the duties of the Thachudaiya Kaimal were not restricted to superintending the construction of the "Sree Covil" (sacred room in which the swami was placed) but also to manage the Devaswom affairs. Cochin contended that the duties of the Thachudaiya Kaimal were confined to the superintendence of repairs to the temple. As the treaties of 941 and 981 declared that the affairs of the Devaswom were to be conducted according to past usage the main point to be settled was what the past usage was.

Page 1 of yellow pamphlet regarding Irinjalakuda pagoda.

Page 2 of yellow pamphlet regarding Irinjalakuda pagoda.

Page 23 of yellow pamphlet regarding Irinjalakuda temple.

Page 9 of yellow pamphlet regarding Irinjalakuda temple.

Pages 3–5 *ibid.*

6. In his decision on the case the arbitrator said: "In view to construe the "intention of the treaties it must be "considered what were the probable "circumstances under which they were "entered into. I use the word 'probable' because there is no evidence "showing the facts. . . . . When "the treaty of 941 was entered into there "was a Kaimal in office (*vide* F) who must have been appointed by Travancore, and "as the treaty of 981 distinctly refers to the management of the various religious "endownments, it is only reasonable to infer that the management of the temple was "under him as nominee or agent of Travancore . . . . It is not reasonable "to suppose that the appointment of "kaimal was merely for the purpose of re-"building a small portion of the temple,— "for such a work could not have occupied "the long periods wherein the last two kaimals held office, amounting to Cochin's "own admission (in F) to ninety-four years—and such a supposition is entirely "negatived by the conduct of the temple during the tenure of office of that last "Kaimal from 983 to 1,026 during which it is evident that the Travancore nominee "had entire management and control of the whole of the temple concerns and endow-"ments and who was no more subject to Cochin in regard to that management and

Pages 16, 17 of yellow pamphlet regarding Irinjalakuda temple.

Para. 8 of Arbitrator's proceedings—page 16 of yellow pamphlet.

Para. 11, *ibid* page 17 of yellow pamphlet.

Para. 15 of arbitrator's decision, page 17 of yellow pamphlet regarding Irinjalakuda Thachudaiya Kaimal Stanom.

"control than any janmi (proprietor) subject of the State." The arbitrator decided therefore that the Thachudaiya Kaimal was the manager of the Irinjalakuda pagoda and its endowments, that he was the nominee and agent of Travancore; and that Cochin had no right of interference whatever in the affairs spiritual or temporal of the pagoda save such as may pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Numbudris.

Page 18 of yellow pamphlet on Irinjalakuda temple.

7. The decision of the arbitrator regarding this pagoda was no doubt right. In his decision regarding the Ellengoonnapolay Devaswom which was submitted to his arbitration at the same time he made the following remark which applies to the Irinjalakuda pagoda as well:—

Para. 14 of decision, page 9 of G.O., 445, Political, 30th October 1882.

"The treaty or engagement of 941 . . . . relates entirely to superintendence "of pagodas, and it explains referring to the former treaty of 937, what that 'superin- "tendence of pagodas according to former usage' meant, it shows that the former usage "had been that each State held pagodas within the territories of the other and had itself "managed them and that this usage had been found inconvenient leading to daily "disputes, and the agreement arranges that, with certain exceptions, each State shall "superintend the pagodas situate within its dominions, and withdraw from those "which may not be so situated."

8. The Cochin Darbar were not satisfied with the arbitrator's decision and appealed against it to Government. The Government, however, confirmed the arbitrator's decision.

G.O., 547, Political, 25th November 1881.

9. A fresh dispute regarding the Irinjalakuda temple has now arisen as the Cochin civil courts have decided that the Thachudaiya Kaimal cannot sue to recover rents due to the pagoda. The Travancore Darbar contend that this decision has the effect of annulling the arbitrator's decision which gave to the Kaimal the managership of the pagoda and its endowments. The Cochin Darbar disclaim any intention to disturb the decision of the arbitrator, and state that any action in controvention of the terms of the arbitrator's decision should be vigorously suppressed in the interest of both the Darbars alike. The matter in dispute therefore depends on an interpretation of the arbitrator's decision which both the Darbars say they desire to abide by.

10. The Irinjalakuda pagoda lies in the Cochin State but its endowments consisting of immoveable property lie partly in Cochin, partly in Travancore and partly in British India. The Thachudaiya Kaimal is manager of the affairs of the temple which itself is the property of the Nambudri community called the Yogam consisting of 42 families, of which the representative members are called Yogakars, or as they are now called, Ooral-lers, and His Highness the Raja of Cochin is one of the Yogakars. In 1884, 1886 and subsequent years the Kaimal instituted suits to recover arrears of rents due to the temple and decrees were passed in his favour. In 1889 the Yogakars sued the Kaimal to compel him to render accounts to them on the ground that they were the owners of the temple and its endowments and that the Kaimal was amenable to their authority. The Kaimal contended that he through the Maharaja of Travancore was owner of the temple; that the Yogakars had never exercised any right of control over him in the management of it; and that he was not liable to render accounts to them. The District Judge, Anji Kaimal, however passed a decree in favour of the plaintiffs [Original Suit No. 31 of 1064 in the Zillah Court of Anji Kaimal]. The Kaimal preferred an appeal to the Chief Court of Cochin but failed to appear and the appeal was dismissed for default. The order was subsequently affirmed by His Highness the Cochin Raja's Court of Appeal on the 20th November 1900. Meanwhile a suit brought by

This is the Resident's statement. The Cochin Chief Court does not agree (majority judgment at pages 10—18. The Sub-Judge of Calicut on the other has recorded a finding that the Kaimal is the trustee entitled to the absolute management of the Devaswom and that the Yogakars have no proprietary rights.
V.S.M.—30-8-09.

The Sub-Judge of Calicut finds that the Yogakars have no right to call upon the Kaimal to *render* accounts, their only right being to hear the accounts read (para. 6 of Sub-Judge's finding).
V.S.M.—30-8-09.

the Kaimal to recover certain lands for the temple with arrears of rent was, on the basis of the decision in Original Suit No. 31 of 1064, dismissed by the District Munsif, Irinjalakuda, on the ground that the Kaimal was not competent to sue for rent. This decree was confirmed by the Zillah Court and the Chief Court. In the Chief Court the two Judges who heard the case were divided in opinion, a reference was therefore made to a third Judge, and the majority decided that the Kaimal was not competent to institute suits for the properties or profits of the temple.

11. Of the three Judges, Mr Krishna Menon decided in favour of the Kaimal, Messrs. Locke and Narayana Marar against him. Mr. Narayana Marar in his judgment quoted the following extract from the arbitrator's decision :—

"I decide therefore that the Thachudaiya Kaimal is the *Manager* of the Irinjalakuda "pagoda and its endowments, that he is the nominee and agent of Travancore but is subject to "the civil and criminal jurisdiction of Cochin, that Cochin has no right of interference "whatever in the affairs spiritual or temporal of the Irinjalakuda pagoda save such as may "pertain to the office of Yogakar held by the Raja of Cochin jointly with certain Nambudris."

The Judge then proceeded to remark that as the Yogakars were no parties before the arbitrator, their rights whatever those might be were left untouched by him. The conclusion appears to be correct though the argument on which it is based is unsound. The arbitrator's intention was merely to examine and confirm previously existing rights which were supported by evidence. Both the Yogakars and the Kaimal had their respective powers and functions in regard to the temple. The Travancore Darbar do not dispute the fact that the Yogakars are the owners of the temple. The Judge held that as the Kaimal was only a Manager he was not the proper person to sue on behalf of the Devaswom, the persons who could do so being the Yogakars. Mr. Locke also took the same view of the case. Referring to the arbitrator's declaration :—

> The Calicut Sub-Judge finds otherwise. The Yogakars have according to him merely the right to take the initiative in getting a Thachudaiya Kaimal appointed by the Maharaja of Travancore but have no proprietary interest in the Devaswom property.
> V.S.M.—30-8-09.

"It is evident that the Travancore nominee had entire management and control of the "whole of the temple concerns and endowments and was no more subject to Cochin in regard to "that management and control than any jenmi (proprietor) subject of the State," Mr. Locke says : "Much has been made of these pronouncements ; but whatever may be the weight to be "given to them it is obvious they can only be binding on the two States and not on the Yogakars "who were no parties to the arbitration."

He also held that as the Kaimal had been declared by a competent court to be only the manager of the temple he could not be permitted to ignore the rights of the legitimate owners, the Yogakars, and maintain suits on his own account. In arriving at these conclusions the Judges appear to have overlooked the very important fact that the rights of the two States as regards the temple were based on certain treaties and that the rights and powers of the Kaimal could not be circumscribed in the way they may have been had he been merely a Cochin subject. From the wording of the treaties of 907 and 941 and from the extracts quoted from the arbitrator's award it is almost certain that little or no active interference or control was in early times exercised by the Yogakars over the Kaimal who apparently regarded only the Maharaja of Travancore as his superior.

12. Mr. Krishna Menon, the third Judge, did not concur with his colleagues. He said—

"I have distinctly pointed out that the Thachudaiya Kaimal's position is not analogous to "that of an agent or samudayam, that he "derives his authority from the Travancore and "Cochin Governments and from the fact of his "consecration, that he must be considered to "have the right to sue for the devaswom which "the Diwan of Cochin was previously exercis- "ing, and that he has a right in himself and "can bring a suit" . . . . "the decision "of the arbitrator which was subsequently "confirmed by the Madras Government clearly

> The Sub-Judge of Calicut says that this judgment is more in conformity with the usage of the devaswom and with the nature of the office of Thachudaiya Kaimal, there being no analogy between this office and the position of a samudayam in a Malabar devaswom (para. 6 of finding.)
> V.S.M.—30-8-09.

"vests in the Thachudaiya Kaimal the entire management and control of the whole of the "temple concerns and endowments." . . . . . "The consequences of a contrary opinion may "also be considered. The plaintiff (Kaimal) has undoubtedly got at present the right and duty "of the management. How is he to exercise or perform it if he cannot even recover the rent, "etc., due to the temple?"

13. There appears to be no doubt that this view is the correct one. The Travancore Darbar acquired in prehistoric times the right of supervision over the temple and they appointed the Kaimal to represent them at the temple. If he had no power to sue, except with the permission and as the representative of the Yogakars, when rent fell due or when the property of the temple was wrongly taken possession of by persons, the income and receipts of the temple would in all probability have very rapidly diminished. The Yogakars would seldom have cared to assist the Kaimal, whom they would have looked upon as an outsider and interloper, in any disputes he had with the tenants, and they would naturally endeavour to reduce to as little as possible the authority of the Kaimal, as this would lead to the increase of their own power. The Yogakars *as owners of the temple* had certain rights, one of which was to call for the accounts of the temple funds. Mr. Krishna Menon in his judgment says :—

> The Sub-Judge of Calicut says that the Kaimal's true legal character is that of a trustee entitled to the absolute management of the devaswom in his own right as the representative of the deity (para. 8 of finding).
> V.S.M.—30-8-09.

> This is denied by the Sub-Judge of Calicut.
> V.S.M.—30-8-09.

"I think the real basis of that decision is that the Yogakars had established their right "to an account by proof of 'time-honoured custom'."

As owners of the temple it is but right that they should know how the revenue of the temple was being utilised, and a demand for production of accounts could not be described as an interference with the Kaimal's management of the temple. The Kaimal appears to have been mistaken therefore in considering that he was not bound to show the temple accounts to the Yogakars and that they were not the owners of the temple. The powers of the Yogakars are also limited. Mr Krishna Menon towards the conclusion of his judgment says—

> He was right according to the finding of the Sub-Judge of Calicut.
> V.S.M.—30-8-09.

"When the right of management is given to the plaintiff not by the free consent and to "be exercised only during the pleasure and subject to the control of the Yogakars, but because "and in pursuance of the Travancore Maharaja's contractual right to appoint a manager, it "seems extremely doubtful whether the Yogakars can alone bring suits on behalf of the devaswom "without the Thachudaiya Kaimal when there is one being also a party to it. As the Kaimal "represents the Travancore Maharaja, it may also be argued that His Highness should also be "a party. To hold that in every petty suit in connection with the devaswom Their High-"nesses the Cochin and Travancore Maharajas and all the Yogakars are necessary parties will "be almost equivalent to shutting out the devaswom from the Courts."

The view of the case taken by Mr. Krishna Menon appears to be the only view that can reasonably be taken in the matter. The mere fact that the Travancore Maharaja, a foreign chief, possessed certain rights in the temple would go to show that the management of the temple was of a peculiar nature and not on the same lines as that of the other temples in the Cochin State. The two treaties referred to above themselves proclaim this.

14. In paragraph 7 of his letter, the Resident says :—

"The crux of the whole matter lies in the statement of the two Judges forming the "majority that the Yogakars not having been parties to the enquiry before the arbitrator their "rights were in no way affected by this (his ?) decision. I submit that this view is untenable. "The arbitrator was appointed with the consent of both the States to decide questions involved "in the interstatal disputes. His decision is binding upon the States and it follows that no "private individuals within those States can put forward any claims to rights which are opposed "to the due fulfilment of that decision."

But as remarked above what appears to be the case is not that the arbitrator in any way curtailed the rights of the Yogakars, but that the latter are endeavouring to encroach upon those of the Kaimal. Custom is the guiding principle in questions of this sort and the Yogakars appear to be consciously unconsciously endeavouring to introduce innovations in regard to the management of the temple.

15. In the present dispute the question is how is the disagreement between the two Darbars regarding a matter which formed one of the subjects of certain treaties to be finally settled by the Courts or by the Darbars. Travancore urges that as the Cochin Courts derive their power from the Raja who is bound to observe the stipulations of the treaties, he should by proclamation or otherwise rectify the errors of those courts. The Cochin Darbar declare that they cannot be held responsible for the Judicial decisions of their courts. This declaration has no legs to stand upon. The Resident puts the case clearly. He says Mr. Hannyngton's decision—

Para. 7 of Resident's letter, 20th May 1909.

"is a fact and it would raise innumerable questions if any attempt were made at this "date to go behind it. I submit that it must be followed to the letter; and the common sense "view appears to be that the Kaimal having been declared to be the manager of the temple and "its endowments both States must use all their powers to permit him to manage. The Cochin "courts have undoubtedly obstructed him and as Cochin shields herself behind the decision of "her own courts, she is also obstructing."

16. In the dispute regarding the Perumanam temple, the Cochin Darbar adopted a somewhat similar line in defending her claims. In that case the Government held "that the right of the Travancore "Darbar in respect of the Oocha Pooja "(midday service) and its endowment is not a right subordinate to the trusteeship "but a right of superintendence over the trustee; that the Travancore Darbar have "the right to supervise the temple servants so far as their functions in respect of the "midday service are concerned, ..." The Cochin Darbar protested against the decision of Government on the grounds that no reference to the paramount power had been sought on behalf of the Cochin State, and that acquiescence in the decision would prejudice the prestige of the Cochin Courts which the Darbar considered were competent and at the same time the proper authority for the determination of the exact nature of the rights vesting in the Maharaja of Travancore. The first objection does not arise in the present case. As regards the second, the Government pointed out to the Cochin Darbar that it clearly was not the intention of the Government of 1882 that the rights of the Travancore Darbar should become a subject of dispute in the Cochin Courts. The fact that the rights of the Travancore Darbar in regard to the Irinjalakuda pagoda were settled in treaties between the two States places the matter entirely outside the jurisdiction of the Cochin Courts and any dispute regarding such rights should be treated as an interstatal matter and decided by the Darbars themselves independently of their Courts. The Cochin Darbar may be informed accordingly and told that as the decisions of their Courts appear to be clearly wrong they should, as suggested by the Resident, by proclamation or otherwise, rectify the errors of the Courts. The question of the respective rights of the Kaimal and of the Yogakars need not be entered into. They may be left to adjust themselves. What the Cochin Darbar should give effect to by an executive order is that the Kaimal can sue to recover rents due to the pagoda

G.O., 326, 17th July 1909.

G.O., 504, Political, 8th October 1907.

Resident's letter, R. C. 2169, 27th January 1909, page 1 of G.O., 326, Political, 17th July 1909.

H. W.—4-8-09.

17. Since the above note was written, the Resident in Travancore and Cochin * submitted a copy of the decision of the Sub-Judge of Calicut in which the position of the Thachudaiya Kaimal and that of the Yogakars are dealt with.

* Resident's letter Dis. 322, 11th August 1909.

18. In connection with a second appeal before them the High Court of Madras called for a finding on the following issues :—

(1) whether the yogam or members of the yogam of Irinjalakuda are interested in the suit property (belonging to the Irinjalakuda Devaswom) and if so what is the nature of the interest; and

(2) whether the Thachudaiya Kaimal is or is not a trustee of the temple.

Para. 2 of Sub-Judge's decision.

19. After giving a brief account of the manner in which a Thachudaiya Kaimal is appointed, the Sub-Judge says that by his installation the Thachudaiya Kaimal becomes in theory identified with the deity presiding over the temple and that this is clear from the fact that he assumes the name of the deity "Manikkam Keralan") and carries on the management of the Devaswom in the name so resumed. The following excerpts from the Sub-Judge's decision are of interest :—

"The Thachudaiya Kaimal, as shown by the documents on record, manages the Devaswom "in his own right as the human representative of the deity, whose name is the name attached to "his office . . . . The Thachudaiya Kaimal after he is ordained a sanyasi and installed in "his office becomes the representative of the deity and is the authority in whom is vested the "absolute right to the control and management of the Devaswom."

The Sub-Judge then refers to the arbitrator's decision of 1881 and says :—

"The observation of the arbitrator . . . that Thachudaiya Kaimal, though the "absolute manager of the Devaswom, is the agent of the Travancore Maharaja is only an "*obiter dictum* and is not borne out by the evidence. The status of Thachudaiya Kaimal in "relation to the Devaswom was not one of the points referred to the Arbitrator and the decision "of the point was beyond the scope of his enquiry. The only question referred to him for "decision was the question of the respective rights claimed by Travancore and Cochin in regard "to the stanom of Thachudaiya Kaimal and it was therefore not necessary for him to decide "the question of the legal powers vested in the office of Thachudaiya Kaimal. No doubt the "Thachudaiya Kaimal is the nominee of Travancore, as both according to usage and the "provisions of the Treaties of 941 and 981, the right of nomination to the office is vested in the "Travancore Maharaja, but the proposition that the Thachudaiya Kaimal is the agent of "Travancore in his management of the Devaswom is one which is refuted not only by the nature "of the office but also by the character of the management carried on by the Thachudaiya "Kaimal."

20. On the question whether the position of the Thachudaiya Kaimal is analagous to that of a samudayam of an ordinary Malabar Devaswom, a point on which some stress was laid in Mr. Locke's judgment, the Sub-Judge says that this view is altogether unwarranted and quite opposed to the origin and history of the office of Thachudaiya Kaimal and the powers and dignities attached to it.

End of para. 2 of finding.

21. As regards the position of the yagokars, the Sub-Judge observes that the yogakars do not appear to have taken any part in the management of the temporal concerns of the Devaswom even during the period (from 1026 to 1057 M.E.) when there was no Thachudaiya Kaimal owing to disputes between Travancore and Cochin. The Sub-Judge says in paragraph 3 of his finding :

"There is nothing to show that the yogakars have any right to the properties of the "Devaswom. Their function is purely that of a sacerdotal body in whom is vested the right of "safeguarding the spiritual and temporal interests of the Devaswom by taking the customary "steps for the election of a proper person to fill the office of Thachudaiya Kaimal to represent "the Devaswom whenever there should be a vacancy. They form as it were the electorate "through whose action the Thachudaiya Kaimal is to be elected. They do not appear to possess "any right to take part in the temporal concerns of the Devaswom which are under the absolute "control and management of the Thachudaya Kaimal."

Para. 6 of finding.

22. Paragraphs 4 to 6 of the Calicut Sub-Judge's decision contain his criticisms of certain decisions of Courts in the Cochin State. In the course of his criticisms, he deals with the argument that the right of the yogakars to call upon the Kaimal to render accounts shows that they are the proprietors of the temple. He agrees with the District Judge of Anjikaimal that such right is not inconsistent with the Kaimal's right of management of the Devaswom as its rightful representative. He says :

"Such a right in the yogakars is not an indication of any proprietary title in them. It "is a significant circumstance that, according to the usage of this Devaswom. the yogakars have "only the right to hear the accounts *read*. They have no right to call upon the Machudaiya "Kaimal to *render* accounts to them. They have no right to deal with the balance found due, "they have no right even to pass a voucher in token of the accounts having been rendered. In "other words, the Thachudaiya Kaimal is not accountable to them for the income of the Deva-"swom, but has simply to exhibit his accounts of management to them in the temple."

The Sub-Judge then refers to the latest decision of the Cochin Chief Court which is dealt with in the Resident's letter of the 20th May and says :

"I am altogether unable to concur in the view taken by the majority of two Judges "in that case. Their view appears to have proceeded upon a supposed analogy between the "office of Thachudaiya Kaimal and the position of a samudayam in a Malabar Devaswom. I "have already shown that there is no such analogy and that the office of Thachudaiya Kaimal "is altogether different from that of a samudayam I do not consider that the reasons upon "which the decision is rested are in accordance with the evidence now on record. I am of "opinion that the dissentient judgment of the second Judge in favour of the Thachudaiya "Kaimal is more in conformity with the usage of the Devaswom and with the nature of the "office of Thachudaiya Kaimal. Summing up the several decisions in the Cochin Courts, "he says: There is thus a conflict in the decisions of the Cochin Courts regarding the powers of "Thachudaiya Kaimal, but the decisions which hold that he is, by virtue of his office, entitled "to the absolute control and management of the Devaswom and is entitled to sue on behalf of "the Devaswom are, in my opinion, entitled to greater weight, being more in accordance with the "traditions and usage of the Devaswom."

23. In the result, the Sub-Judge finds that the Yogam has no proprietary interest in the Devaswom property, that the only right which they have is the right to take the initiative in getting a Thachudaiya Kaimal appointed by the Travancore Maharaja for the Devaswom when there is a vacancy in that office, to have the accounts of the Devaswom read to them by the accountant of the Thachudaiya Kaimal in the temple and to see that the spiritual interests of the temple are properly kept up.

As regards the second issue, namely, whether the Thachudaiya Kaimal is or is not a trustee, the Sub-Judge finds that the Kaimal is in law the trustee of the Devaswom and that the evidence on record shows that he has been all along managing the Devaswom properties as the rightful representative of the Devaswom without any interference on the part of the Yogam.

24. The High Court * of Madras has accepted the above findings.

* Munro and Abdur Rahim, J.J.

Page 14 of the High Court's judgment, 5th August 1909.

25. In a letter written by him to the Diwan of Travancore on the 16th November 1891, the Resident, Mr. Hannyngton, said :

"A perusal of my decision as arbitrator clearly shows that the contention throughout between the States did not relate to the right of management of the pagoda and its endowments but to the right of nominating a Kaimal.

"The decision tends to show that as a fact neither Travancore nor Cochin ever exercised proprietary rights over the Devaswom property, but that the entire management and control was exercised by the Kaimal who was nominated by Travancore.

"The Kaimal as Travancore nominee may be a sort of indirect agent or support to Travancore influence, but as manager of the temple and its endowments he is entirely independent of both States save as a subject of Cochin . . ."

26. To sum up, the arbitrator decided in 1881 that the Thachudaiya Kaimal was the manager of the Irinjalakuda temple and its endowments. The Madras Government confirmed this decision. In 1891, Mr. Hannyngton, the Resident, who had been the arbitrator, re-affirmed that the entire management and control of the Devaswom property belonged to the Kaimal. The Cochin Chief Court by a majority of two Judges held in 1904 that the arbitrator's decision could only be binding on the two States and not on the yogakars who were no parties to the arbitration. That Court also held that the yogakars were the proprietors of the temple. A third Judge of the same Court dissented from at least the first of these views and held that the Kaimal could sue on behalf of the Devaswom. He did not pronounce any definite opinion as to whether the yogakars had proprietary interests in the Devaswom. The

Sub-Judge of Calicut holds that the Kaimal is the sole trustee and manager of the temple and its endowments and that the yogakars have no proprietary interests in the Devaswom and the Madras High Court accept this view. The Government have to decide the course of action to be taken by them to settle the dispute. Cochin cannot be allowed to shield herself behind the legal quibbles of her Courts. An interstatal dispute of this sort must be settled on grounds of general equity. The point in issue is whether the Kaimal can sue to recover rent due to the Devaswom. The Government need not go into the question of the ownership of the temple. They can ask the Cochin Darbar to issue a proclamation to the effect that its Courts must recognize the Thachudaiya Kaimal as manager of the Irinjalakuda temple and as such entitled to sue for the recovery of rent due to the temple.

V.S.M.—30-8-09.

The above office note, which summarises the papers, is of great length, but the case is not really complicated, though very intangible. It is just because there is scarcely any material for a decision, few ascertained facts, few old documents, that so much has been written by the Darbars and Cochin and British Courts. The question at issue simply is whether an ecclesiastical dignitary known as the Thachudaiya Kaimal, who is a Cochin subject, but is appointed by Travancore, is a trustee who can sue for a certain temple in Cochin, or merely a subordinate agent of trustees (Uralars).

2. The case was first submitted to Government more than two years ago (Resident's C. No. 220, dated 11th May 1907) with a brief letter giving cover to a file of correspondence between the Resident and the Travancore Diwan. As Cochin did not appear to have been consulted, and as moreover the case was not submitted by the Resident in the form required by the Correspondence Rules, this office returned the papers to the Resident. The Resident (Mr. Carr) was then of opinion that, though decisions of the Cochin Courts had reduced Travancore's nominee to a nonentity, it was impossible to interfere. On the papers being returned to the Resident, both Mr. Carr and Mr. Davidson went into the question carefully in consultation with both Diwans, and Mr. Carr has now submitted a report, the conclusions of which may, it is submitted, be accepted. Mr. Carr now holds that Government should intervene and advise Cochin to give the Travancore nominee full powers of management by legislation, the courts in Cochin having, in error, deprived him of all powers of management. Support is given to the Resident's present position by the finding on the question whether a Kaimal * is a trustee or a subordinate manager (samudaya) of the Sub-Judge of South Malabar; which finding was accepted by the High Court, Madras, on the 5th of August last. It has been found by the British Courts (which are concerned because part of the temple property lies in British Malabar) that the Kaimal is a trustee.

* Means "Prince." "Chief" as I can prove by citations from old books if required to do so.
A.G.

3. The points for the decision of this Government are—

(1) whether the point now in issue is politically a decided case, questions about the particular temple having been decided by Mr. Hannyngton, an arbitrator appointed by them, in 1881;

(2) whether, if it is not, it is nevertheless a case involving the interpretation of treaties and so not one for the municipal courts of Cochin. If either of these questions is decided in the affirmative, it will be necessary to give advice to the Darbars.

4. *Was the case decided by arbitration in* 1881? The finding in paragraph 18 of the arbitrator's decision merely states that the Kaimal is the manager of the pagoda. It does not say what sort of manager, which is the point now at issue. It is true that in paragraph 15 Mr. Hannyngton remarks that the Kaimal "had entire management and control of the whole of the temple concerns and endowments." This, however, is not a decision, but an *obiter dictum*—*vide* Mr. Hannyngton's own statement on this point (as Resident) in paragraph 3 of his letter of 16th November 1891. He was

only deciding as to the right of nominating the Kaimal. At the same time his observations in paragraph 15 of the decision, as also in paragraphs 4 and 5 of the letter of 1891, that the Kaimal had entire management and control are important as to the facts.

A.G.C.—15-9-09.

Submitted that the point now in question was not decided by arbitration in 1881, but the weight of the arbitrator's authority nevertheless lies on the side of the view of the facts now taken by the British Resident and the British Courts.

5. *Does the case involve the interpretation of treaties?* Please see the treaty of M.E. 941 (1765 A.D.) and clause VII of the agreement of M.E. 981 (1805 A.D.) It was decided by treaty that the temple management should be conducted according to past usage. It therefore appears to me that the present question (which is what is the manner of that management) is one of interpretation of treaties and is a political question for the Government of Madras to decide, not a question for the Cochin Courts.

A.G.C.

6. As Mr. Hannyngton observed (paragraph 8 of decision) it is not easy to construe the treaties, because there is no evidence showing what "the past usage" referred to was, and it is only possible to decide on probabilities. His own view and that of the British Courts has already been referred to. It is also that of one of the Judges of the Cochin Chief Court, Mr. Krishna Menon. The view of the majority in the Cochin Chief Court that the Kaimal was only an ordinary samudaya seems to be based on no evidence and to be contrary to the probabilities. The Kaimal is a specially consecrated dignitary, who assumes the name of and is in some sort identified with the deity of the temple; and it may be observed that in the treaty of M.E. 941 the temple is referred to as the "Tachudaiyan's" while other temples mentioned are not referred to as belonging to their managers. It might be inferred from the wording of the treaty itself that the Thachudaiya Kaimal's position was special and higher than that of an ordinary samudaya; and the same thing might be inferred from the title itself, which means the temple *Prince*; an ordinary manager would not be called by a title, which in the eighteenth century when the treaty was made, was assumed by the smaller temporal potentates of Malabar, who were not important enough to be called Raja. I think therefore that while there is no conclusive evidence one way or the other the probabilities are that under "the past usage" referred to in the treaty of 1765 A.D. the "Temple Prince" had full rights of management and that the action of the Cochin Courts in depriving him of them by an erroneous decision is an infraction of rights guaranteed to Travancore's nominee by treaty.

7. The Perumana Devaswom case was referred to the Advocate-General for opinion (G.O., No. 504, dated 8th October 1907). It hardly seems necessary to refer this case. We have the opinion of a British representative of the law, the Sub-Judge, South Malabar, which opinion has been accepted by the High Court, in the file. It deals with the question whether the arbitrator's decision decided the point now in issue and takes the view I have taken above; it also takes the above view of the probabilities.

A. GALLETTI—1-1-09.

I agree with the conclusions stated in Mr. Galletti's note, viz.—

(1) that the status of the Kaimal is a political question arising out of the treaties between Travancore and Cochin of 1761, 1765 and 1805;

(2) that it was not settled in Mr. Hannyngton's award, as arbitrator, in 1881, which, as he himself says "did not relate to the right of management of the pagoda "and its endowments but to the right of nominating a Kaimal."

The Cochin Darbar is under treaty obligation "to allow the Devaswom "affairs to be managed as heretofore" (treaty of 1805), and it cannot take refuge behind the findings of its own courts. If the findings of those courts are contrary to the usage which, under treaty, the Darbar is bound to maintain, the Darbar must, by legislation or otherwise, correct the findings of her courts in accordance with her treaty obligations.

2. So far there is no great difficulty. The crux of the matter arises in determining how the Devaswom affairs used to be managed prior to the treaty of 1805. Here the Cochin Chief Court has taken one view and a British Sub-Court (whose findings have been accepted by the Madras High Court) has taken another view. It seems probable that the Cochin Court is wrong and that the Kaimal had full powers of management, but can the Madras Government lay this down *ex cathedrá* and advise the Cochin Government to legislate so as to override its own Chief Court, without our first obtaining further legal opinion? I submit that the course now to be followed may be to state clearly to the Cochin Darbar its treaty obligations in the matter and to say that, before the Government advise the Darbar as to what action the Cochin Darbar should take to carry out those obligations, the Government propose to refer the question of the legal powers of the Kaimal for the opinion of a Judge of the Madras High Court (Mr. Justice Sankaran Nayar *) and to advise the Darbar in accordance with the opinion he may give. The Cochin Darbar may be asked whether it has any objection to urge against this course. The Travancore Darbar may be similarly informed.

* A West Coast man and not one of the Judges who heard S.A. No. 7/8 of 1904.

A. G. CARDEW—15-9-09.

We should be in a very awkward position if either or both of the Darbars declined to accept Mr. Sankaran Nayar as final arbiter.

I should have thought that with our High Court judgment behind us we were in a strong enough position to advise Cochin though it would have to be carefully done.

I should like to hear the views of my Honourable colleagues.

A L[AWLEY]—23-9-09.

Circulated.

A.G.C.—24-9-09.

I agree with His Excellency. I don't think it would be advisable to seek the opinion of a High Court Judge or to make any such suggestion to the Darbars in the way proposed by the Chief Secretary. Whatever advice is offered to the Darbars must be that of the Madras Government. It is open of course to Government to consult their legal advisers, or any one else they may think fit, and to form their opinion on the basis of such advice; but, in communicating that opinion to the Darbars, Government would communicate it as their own, and not as the opinion of any subordinate adviser, nor would his name appear at all.

As His Excellency points out the Government would be placed in an unpleasant position if the Darbars or either of them rejected the advice or opinion of any suggested arbiter It would also, I think, be contrary to established political practice that Government should admit any intermediary between themselves and the Darbars. It is, I think, a political axiom in India that the Government will always deal with Native States direct. If the Government suggest an arbiter in one case, they would find it difficult to refuse their consent, should a Native State in any other case request a reference to arbitration.

Nor is there any apparent reason why we should go behind the judgment of our own High Court. That should suffice for us: while, on the other hand, if Mr. Sankaran Nayar were asked to arbitrate and were to give an opinion contrary to that of the High Court, Government would be placed in a still more difficult position.

J. N. A[TKINSON]—26-9-09.

I agree. It would be quite wrong to refer this matter to a High Court Judge. The decision must be ours, and if we want advice the Advocate-General is our adviser. However I do not see there is any need for further advice. It is to be regretted that in these *two* cases we must rule against Cochin, but it cannot be helped. I would issue an order now

I refer to this one and the one we recently decided (Perumanam Devaswom).

carefully worded to give as little offence as possible to the Cochin Raja who, Mr. Carr told me, is much exercised over our decision in the Perumanam Devaswom case.

M. H[AMMICK]—14-10-09.

Please draft.

A.G.C.—15-10-09.

Chief Secretary—

A draft order is submitted.

A.G.—12-11-09.

His Excellency the Governor.

W. S. MEYER—13-11-09.

I accept the draft.

A. L[AWLEY]—15-11-09.

[G.O., No. 540, Political, dated 17th November 1909.]

Government of Madras.

POLITICAL DEPARTMENT.

Recd. } 1909. *Enclosures*

Regd. *Spare copies*

Letter No. 542, 18th November 1909.

Salutes at Ootacamund.

Informing the Assistant Adjutant-General, 9th (Secunderabad) Division, that the Government accept his proposal that the exact hour at which salutes should be fired at Ootacamund on the arrival at, and departure from, the station of Indian Chiefs and officials should be intimated to him in future.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Read—the following papers :—

I

Letter—from the Officiating Assistant Adjutant-General, 9th (Secunderabad) Division.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 8th June 1909.
No.—R. 2959.

I am desired by the General Officer Commanding 9th Division to suggest for your consideration whether the draft order forwarded herewith could not be brought into force here as regards salutes for Native Chiefs on arrival and departure at Ootacamund. In one case this season a salute was fired by mistake and had to be fired again, and in the more recent case of His Highness the Maharaja of Alwar the saluting party were kept in readiness for three days expecting His Highness's arrival.

To avoid mistakes and possible references from Chiefs themselves, as well as to prevent unnecessary work for the saluting party, the draft enclosed is submitted for your consideration and approval.

Enclosure.

Draft Order.

With the approval of the local Government the following procedure will be observed as regards the firing of salutes for Native Chiefs on arrival at, or departure from, Ootacamund.

2. When a definite hour and date are given for arrival or departure of a Chief, the salute will be fired at the hour notified.

3. When only an approximate hour or date is notified, the Secretary to the Government of Madras will notify to the Assistant Adjutant-General, 9th Division, that the Chief has arrived and the salute will be fired at 8 A.M. the following morning. Similarly, on departure, the salute shall be fired either the evening before, or at 8 A.M. on the morning of, the day of departure as may be asked for in submitting the request for the salute.

II

Letter—from A. G. Cardew, Esq., I.C.S., Acting Chief Secretary to the Government of Madras.
To—the $\frac{\text{Secretary to the Government of Bombay, Political Department.}}{\text{Chief Secretary to the Government of Bengal.}}$
Dated—Ootacamund, the 1st July 1909.
No.—935-1, Political.

I am directed to address you on the subject of the firing of salutes on the arrival of Natives Chiefs at Ootacamund.

2. Instances have occurred of late in which this Government have not been in a position to ascertain the exact hour of arrival of a Chief at this station and to arrange for the firing of the salutes at the proper time. Chiefs come up by railway or by the ordinary road, and owing to the late arrivals of trains or to the uncertainty

as to the time which motor cars or other conveyances take in reaching the station the Chiefs have not at times been able to fix beforehand the exact hour of their arrival. This uncertainty has caused inconvenience to the Military authorities in arranging for the firing of the salutes. To obviate this difficulty the General Officer Commanding the 9th Division proposes to lay down the procedure described in the draft order enclosed and wishes to know whether there is any objection to it. Before expressing an opinion, His Excellency the Governor in Council desires to ascertain whether similar difficulties have been experienced in the $\frac{\text{Bombay}}{\text{Bengal}}$ Presidency and if so how they have been met. I am therefore directed to request that you will be so good, with the permission of $\frac{\text{His Excellency the Governor in Council,}}{\text{His Honour the Lieutenant-Governor}}$ as to favour this Government with information on the point.

III

Letter—from Sir CHARLES ALLEN, *Kt.*, Officiating Chief Secretary to the Government of Bengal.
To—the Chief Secretary to the Government of Madras.
Dated—Calcutta, the 21st July 1909.
No.—2277-P.

I am directed to acknowledge the receipt of your letter No. 935-1, dated the 1st July 1909, inquiring whether, in the absence of information as to the exact hour of arrival of a Native Chief, difficulties have been experienced in Bengal in arranging for the punctual firing of salutes, and if so, how such difficulties have been met.

2. In reply, I am to say that, as Chiefs do not ordinarily visit Calcutta except when His Excellency the Viceroy is in residence (when their salutes are arranged by the Government of India), difficulties of this nature have not been experienced by the Government of Bengal.

IV

Letter—from J. H. DUBOULAY, Esq., C.I.E., Secretary to the Government of Bombay.
To—the Chief Secretary to the Government of Madras.
Dated—Bombay Castle, the 23rd July 1909.
No.—5070.

With reference to your letter No. 935-1, dated the 1st July 1909, inquiring whether inconvenience has been experienced in this Presidency in fixing the time for the firing of salutes to announce the arrival and departure of Native Chiefs, I have the honour to state that no difficulty of precisely the same nature as that referred to in your letter has arisen, as no salutes are fired at Mahableshwar.

2. Difficulties of a somewhat similar character have, however, arisen in regard to departures by sea from Bombay and have been got over by ordering the salute to be fired as the vessel passes the Saluting Battery. For arrivals and departures by train in Bombay and Poona salutes are ordered at the time when the train is due to arrive or depart, or at 7-30 A.M. the following morning if the arrival or departure takes place after sunset.

V

Letter—from A. G. CARDEW, Esq., I.C.S., Acting Chief Secretary to Government.
To—the Assistant Adjutant-General, 9th (Secunderabad) Division.
Dated—Ootacamund, the 3rd August 1909.
No.—Ref. No. 935-2, Political.

With reference to your letter No. R. 2959, dated the 8th June 1909, forwarding for the approval of Government a draft order regarding the firing of salutes for Native Chiefs on their arrival and departure from Ootacamund, I am directed to request you to be so good as to state whether the order which you propose, or any similar order, is in force in any other station, and if so, where.

VI

Letter—from Lieut.-Col. T. H. HARDY, Officiating Assistant Adjutant-General, 9th (Secunderabad) Division.
To—the Chief Secretary to Government.
Dated—Ootacamund, the 22nd October 1909.
No.—R. 5465.

With reference to correspondence ending with your No. 395-1, dated 3rd August 1909, I have the honour to inform you that reference has been made to the Adjutant-General in India as regards the question as to the practice in the matter of the firing of artillery salutes in Simla, where the conditions are very analogous to those prevailing in Ootacamund, and his reply is as follows:—

(*a*) No local rules exist for the firing of artillery salutes in Simla and no trouble has been experienced in the matter as the Civil authorities invariably notify the precise date and hour of arrival or departure of Indian Chiefs and officials entitled to a salute.

(*b*) It will obviate any difficulty in regard to the firing of artillery salutes at Ootacamund if the Civil authorities concerned, instead of intimating the date and hour of arrival or departure of an Indian Chief or official entitled to the honour, would intimate the exact hour at which the salute should be fired.

2. I would, therefore, request that in future, if it can be so arranged, the exact hour at which a salute should be fired may be invariably intimated.

Letter—from Sir William Meyer, K.C.I.E., I.C.S., Chief Secretary to Government.
To—the Assistant Adjutant-General, 9th (Secunderabad) Division.
Dated—Fort St. George, the 18th November 1909.
No.—542, Political.

With reference to the correspondence ending with your letter No. R. 5465, dated the 22nd October 1909, regarding the firing of salutes at Ootacamund on the arrival and departure of Indian Chiefs and officials, I am directed to inform you that His Excellency the Governor in Council accepts the proposal contained in paragraph 2 of your letter. The exact hour at which a salute should be fired will accordingly be intimated to you in future.

Copy to Public Department.

NOTES TO G.O., No. 542, POLITICAL, DATED 18TH NOVEMBER 1909.

[SUBJECT.—Salutes at Ootacamund.]

Previous Papers.

G.O., 190, *Political, dated* 22*nd April* 1909.
„ 227 „ „ 13*th May* „
„ 237 „ „ 20*th* „ „
„ 244 „ „ 25*th* „ „

Demi-official—from Colonel A. E. AITKEN.
To—A. GALLETTI, Esq., I.C.S.
Dated—the 3rd June 1909.

Before taking the matter up to the General Officer Commanding officially, I should be much obliged if you would give me your views on the following question of salutes.

Would it be possible in cases where Native Chiefs do not state a definite hour of arrival, to have a standing order in force here that their salutes shall be fired the morning after their arrival, at 8 A.M. provided the Chief concerned duly notifies his having arrived to you or to me.

The following is an instance which prompts this suggestion. We got a notice from you that Alwar would arrive about midday on the 1st June. He has, as far as I know, not turned up yet: still the saluting party were kept hanging about and we were sending messengers constantly to try and get information. Late last night on my return home from driving out I found a note waiting for me marked "urgent" from Alwar's Aide-de-Camp asking when and where the salute was going to be fired. I replied at once that it would be fired from the saluting battery directly we knew His Highness has arrived or was due at any given hour. Up to the present, I have heard no more. All this trouble and unnecessary work for the saluting party would be saved, if we had some such rule, as I suggest, that on the absence of a definite hour of arrival or departure being clearly stated by any Chief asking for the salute, the salute shall be fired at 8 A.M. the day after the Chief reports his arrival here, and in the case of no definite hour of departure, at sundown the evening before, or the same as arrival at 8 A.M. on the day of departure.

G.O., 244, Political, 25th May 1909.

This would give us fixed hours to work by and save a salute being fired twice like Baroda's case, or perhaps not at all as is the case at present as regards Alwar.

G.O., 227, Political, 13th May 1909.

I have told the General Officer Commanding I am putting this up to you demi-officially and he approves.

Demi-official— from A. GALLETTI. Esq.
To—Colonel A. E. AITKEN.
Dated—3rd June 1909.

With reference to your demi-official of this date (which I have shown to the Chief Secretary) there seems to be no objection (in view of any precedents or orders of superior authority) to your proposal from a Secretariat point of view. I am to say that the Chief Secretary would be glad if you will transmit the proposal officially for the orders of the local Government.

I

From the Assistant Adjutant-General, 9th (Secunderabad) Division, No. R. 2959, dated 8th June 1909.

With reference to his demi-official of the 3rd instant the Assistant Adjutant-General, 9th (Secunderabad) Division, forwards for the approval of Government a draft order regarding the firing of salutes on the arrival at. and on the departure from, Ootacamund of Native Chiefs.

2. When a definite date and hour are given for the arrival or departure the salute is to be fired at the hour notified. This is practically the present practice, though the military authorities now endeavour to ascertain, before firing the salute, whether the arrival or departure is an accomplished fact. There appears to be no objection to this arrangement. If any Chief fixes a definite date and hour for his arrival or departure and then wishes to change it, it rests with him to inform Government in sufficient time of the change, and he will have no cause for complaint if he does not do so in time.

[*Vide* G.O., 237, Political, 20th May 1909.]

3. When only an approximate date and hour is fixed for the arrival it is proposed to fix the salute the morning after the arrival, on intimation of the fact having been given by Government. Similarly, on departure, the salute is to be fired either the evening before or at 8 A.M. on the morning of the departure as may be asked for in submitting the request for the salute. If a definite hour is not given for the arrival or departure, the arrangements proposed seem reasonable, and they may be agreed to. But such cases need hardly ever arise if Chiefs, when they intimate their intention of coming to or leaving Ootacamund are asked to intimate to Government in time the exact hour of their arrival or departure, and in the few exceptional cases in which they may not be able to do so as regards their arrival they may be asked to let Government know when they have arrived in order that the Assistant Adjutant-General may be asked to arrange for the firing of the salute. A difficulty of this nature is not likely to be felt when Chiefs leave Ootacamund.

When they come by motor, as has happened recently, they don't know the exact hour of their arrival. Besides I suppose Chiefs have the same liberty as other people of changing their minds at the last minute

A.G.

4. The draft order to some extent places the responsibility for arranging for the firing of the salutes on this Government and this responsibility may be transferred to the Chiefs requiring the salutes.

The Assistant Adjutant-General may be informed that the Government have no objection to the draft order forwarded with his letter. Draft letter submitted.

H. W.—24-6-09.

V.S.M.—24-6-09.

There seems to be no objection.

2. The papers may be sent to all Political officers.

A. GALLETTI—26-6-09.

Is there anything in Tupper bearing on the point. We must be careful not to offend susceptibilities.

J. N. ATKINSON—28-6-09.

Tupper has been looked up. There is no ruling in it bearing on the point.

V.S.M.—29-6-09.

A.G.—29-6-09.

Perhaps we had better ask Bombay and Calcutta whether they have experienced any similar difficulty, and if so, how they have met it. Chiefs are so very touchy about anything connected with salutes that we must be careful.

J. N. ATKINSON—30-6-09.

Draft letter submitted.

H.W.—1-7-09.
V.S.M.—1-7-09.

Issue.

A.G.—1-7-09.

[Letter No. 935-1, dated 1st July 1909—**II**.]

III

From the Government of Bengal, No. 2277-P., dated 21st July 1909.

IV

From the Government of Bombay, No. 5070, *dated 23rd July* 1909.

The Bengal Government say that as Chiefs do not ordinarily visit Calcutta except when His Excellency the Viceroy is in residence, when their salutes are arranged by the Government of India, difficulties regarding the making of arrangements for the firing of salutes on the arrival of Chiefs have not been experienced by them.

2. The Bombay Government say that as no salutes are fired at Mahableshwar no difficulty such as has been felt at Ootacamund has arisen, but that difficulties of a somewhat similar nature have been felt in regard to departures of Chiefs by sea from Bombay and that these difficulties have been got over by ordering the salute to be fired as the vessel passes the saluting battery. For arrivals and departures by train in Bombay and Poona salutes are ordered at the time when the train is due to arrive or depart, or at -30 A.M. the following morning if the arrival or departure takes place after sunset. As the Maharaja of Mysore and other Chiefs occasionally come to Ootacamund by motor-car *via* the Segur ghat similar arrangements cannot always be made here. Besides the Chief may not arrive at the time or on the day specified by him. The Government of India may be asked whether they have had any difficulties regarding the firing of salutes for Chiefs at Simla or Calcutta. If India is to be addressed, the letter to Bengal and Bombay with the slight alterations indicated in pencil would seem to be sufficient.

This seems to be nearly the same as what the Assistant Adjutant-General proposes.

A.G.C.—31-7-09.

H.W.—29-7-09.

Submitted that if India are addressed they will have to be asked for a ruling rather than information. It may be considered unnecessary to address India. If a Chief does not say exactly when he is coming, or does not turn up when he said he would, he can't expect the salute to be fired the moment he arrives.

A.G.—29-7-09.

Let us first ask the Assistant Adjutant-General whether the draft order which he proposes is in force anywhere else and, if so, where. His letter seems to imply that it is in force somewhere else, possibly Simla.

A. G. CARDEW—31-7-09.

Draft letter to the Assistant Adjutant-General, 9th (Secunderabad) Division, is submitted.

H.W.—2-8-09.
V.S.M.—2-8-09.

Issue.

A.G.C.—3-8-09.

[Letter No. 935-2, dated 3rd August 1909—**V**.]

IV

From the Assistant Adjutant-General, 9th (Secunderabad) Division, No. R. 5465, dated 22nd October 1909.

The Assistant Adjutant-General says that he made a reference to the Adjutant-General in India regarding the firing of salutes in Simla where conditions are very analogous to those prevailing in Ootacamund, and that the latter informed him that though no local rules existed for the firing of salutes in Simla no trouble has been experienced as the civil authorities notify the precise date and hour of arrival or departure of persons entitled to a salute; and that difficulty regarding the firing of salutes would be avoided if the civil authorities instead of intimating the hour and date of arrival or departure of a Chief or official intimated the exact hour at which the salute should be fired. The Assistant Adjutant-General therefore requests that this procedure may, if possible, be adopted in future.

2. If the request of the Assistant Adjutant-General is to be complied with it will be necessary whenever a Chief intimates his intention of arriving at or leaving Ootacamund to ascertain the exact hour when he arrives or leaves, or in case the exact hour cannot be given, the approximate time of arrival or departure, so that a suitable hour may be fixed for the firing of the salute. Such an arrangement would save the firing parties the trouble and inconvenience referred to by the Assistant Adjutant-General.

H.W.—13-11-09.

All that seems necessary is that when the exact hour of arrival or departure is not given in the communication which the political officer makes to this Government, this office should invariably ask for information (ordinarily by telegram) which will enable the hour for the salute to be fixed. This is a matter of office procedure to be provided for by an addition to the Chief Secretariat Manual.

2. The military may be told that the suggestion in their last letter is accepted.

A.G.—16-11-09.

W. S. MEYER—17-11-09.

Draft letter to the Assistant Adjutant-General, 9th (Secunderabad) Division, is submitted.

H.W.—18-11-09.

Issue.

A.G.—18-11-09.

[G.O., No. 542, Political, dated 18th November 1909.]

Government of Madras.

POLITICAL DEPARTMENT.

Recd.		*Enclosures*	
	1909.		
Regd.		*Spare copies*	

G.O., No. 545, 18th November 1909.

His Excellency the Viceroy's Tour.

Communicating to the Collectors concerned extracts from the tour programme of His Excellency the Viceroy.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Order—No. 545, Political, dated 18th November 1909.

Extract from the programme of His Excellency the Viceroy's Autumn Tour, 1909, is communicated to the Collectors of the districts through which His Excellency passes.

(True Extract.)

W. S. Meyer,
Chief Secretary.

To the Collector of North Arcot.
,, ,, of South ,,
,, ,, of Salem.
,, ,, of Coimbatore.
,, ,, of Madura.
,, ,, of Trichinopoly.
,, ,, of Tanjore.
,, ,, of Chingleput.
,, ,, of Nellore.
,, ,, of Gódávari.
,, ,, of Guntúr.
,, ,, of Kistna.
,, ,, of Vizagapatam.
,, ,, of Ganjám.
,, ,, of Madras.
Copy to Assistant Adjutant-General, 9th (Secunderabad) Division.
,, Judicial department.
,, Public Works department (Railway Branch).
,, Public department.
,, Inspector-General of Police.

} Memoranda, dated 25th August 1909 and 23rd September 1909, list of party and extract from tour programme relating to Madras Presidency.

[Annexures.

ANNEXURES.

No. 1838-M.

OFFICE OF THE MILITARY SECRETARY TO THE VICEROY,

Simla, the 25th August 1909.

MEMORANDUM.

I

When travelling by rail, His Excellency will be met at all intermediate stations, where halts of *more than two hours* are made, by the Senior Civil and (if a Military Station) by the Senior Military Officer only, who will report themselves to the Military Secretary. No salute will be fired at these stations, and no Guard of Honour will attend. At minor halting places no officer need attend. No one will be required to attend between 10 P.M. and 6 A.M. unless special instructions are issued.

Full Dress Uniform will be worn. Review Order by Military Officers. Gentlemen not entitled to wear uniform will appear in Morning Dress. These instructions for dress apply to all occasions on which His Excellency the Viceroy is received.

Local authorities will place themselves in communication with the Railway officials and learn through them the time of arrival of the Viceregal train.

The usual Police arrangements will be made by the local authorities along His Excellency's line of route, as well as at all the places of halt.

II

The following rules will be observed by the Military authorities at all stations visited by the Viceroy and Governor-General during His Excellency's tour :—

Salutes.—Viceregal salutes of 31 guns will be fired at all stations where there is a battery, or fort from which salutes are fired, on His Excellency's arrival and departure, and on other ceremonial occasions when called for. When the Viceroy's arrival or departure takes place after sunset, or on a Sunday, the salute will be fired the following morning.

The Artillery firing the salute must be placed at some distance from the road along which His Excellency the Viceroy is to pass.

Escorts.—His Excellency the Viceroy's Escort consists of—

1. *On occasions of high State ceremonial*—

One Battery, Royal Horse Artillery.
One Regiment of British Cavalry.
Volunteer Cavalry or Mounted Rifles, if present.
His Excellency the Viceroy's Body Guard, when present.
One Regiment of Indian Cavalry.

The Viceroy's Body Guard will, on all occasions when present, have the post of honour immediately preceding and following His Excellency the Viceroy's carriage, the Officer Commanding the Body Guard riding on the right of the carriage.

This Escort will only be furnished when specially asked for by the Military Secretary to the Viceroy.

2. *On all ordinary State occasions*, that is, for public arrivals or departures, when His Excellency the Viceroy attends any public ceremony, or visits Native Chiefs in British Territory—

A Field Officer's Escort of British Cavalry of the following strength :—

One Field Officer with the necessary proportion of Officers and Non-Commissioned Officers and 96 rank and file.

If no British Cavalry is present, a similar escort of Indian Cavalry will be found.

When the Viceroy's Body Guard is present, it will form part of the escort in addition to the above.

3. *On all other than State occasions* that is, for private arrivals and departures, for private visits to places His Excellency the Viceroy may inspect—

A travelling Escort of one Subaltern, one Sergeant and twelve rank and file of a British Cavalry Regiment. If no British Cavalry is present, the escort will be found by Indian Cavalry, but in all cases a British Officer will command.

Should the Viceroy travel long distances by road, the Military authorities, through whose district His Excellency passes, will, in communication with the Military Secretary, make special arrangements for escorts which will be reduced to the minimum necessary.

The formation of escorts will, in all cases, correspond with the instructions laid down in the Regulations for Cavalry, the only difference being that if Her Excellency is not in the same carriage as His Excellency the Viceroy, the third division of the escort will follow the second carriage of the procession. His Excellency the Viceroy will in all cases be in the first carriage seated on the right hand side, Her Excellency, if not in the same carriage as the Viceroy, being in the second carriage.

Parades.—Rules for the order of march when His Excellency the Viceroy attends a review will be found in the Indian Addendum to "Infantry Training." If the Viceroy's Body Guard is not present, a Field Officer's Escort of Cavalry will be detailed.

Should His Excellency inspect single Corps, a travelling escort will be sufficient.

Guards of Honour.—A Guard of Honour of British Troops if present, if not of Indian Troops of 100 rank and file, with band and colour, will parade in Review Order at the Railway Station, or if the Viceroy is travelling by road at the most convenient place, usually the house where the Viceroy will reside on the arrival and departure of His Excellency, unless the arrival or departure is notified as "private."

When a Guard of Honour is found, Commanding Officers and Heads of Departments will attend. When the Viceroy's arrival or departure is private, only the Officer Commanding and one Staff Officer will attend.

Whenever Volunteers are present in sufficient numbers to furnish Guards of Honour, they will be detailed for this duty, as well as regular troops.

Guards.—An Officer's guard of British Troops, if available, if not, of Indian Troops, will be mounted on the house or tent occupied by the Viceroy.

This Guard will, in all cases, except in Native States where no troops of the Indian Army are present, be under the command of a British officer, who will report himself to the Military Secretary to the Viceroy for orders. This Guard will pay compliments to His Excellency the Viceroy alone.

It must be of sufficient strength to furnish one double sentry on the door, sentries immediately round the house or tent occupied by the Viceroy, and the usual sentry over the arms of the Guard itself.

In addition to the above, a Guard of Native Infantry will be furnished of sufficient strength to find a single sentry for the Military Secretary's Office Treasury and to guard the Camp, if His Excellency the Viceroy and Staff are in tents, and the enclosure, if the Viceroy is in a house.

The outer limits of the enclosure in which His Excellency the Viceroy is residing will always be guarded by the Police. The Military authorities should therefore put themselves in communication with the Police authorities, and should ascertain what arrangements the latter are making. This will prevent confusion arising between the Military and Police Guards. The Officer Commanding the Station will satisfy himself that the Military Guards are posted so as to ensure the safety of the Viceregal Camp or enclosure, for which they are responsible.

Orderlies.—Four Native Cavalry Orderlies and six Native Infantry Orderlies should be furnished. They will report themselves to the Personal Assistant to the Military Secretary, and be distributed between the Private and Military Secretaries' offices. The Cavalry and Infantry Orderlies will be required from 8 A.M. to 8 P.M., unless other instructions are given. *Both should be relieved during the day as convenient.*

(By Command.)

J. MACKENZIE, Captain,
Offg. Military Secretary to the Viceroy.

No. 2130 M.

OFFICE OF THE MILITARY SECRETARY TO THE VICEROY,

Simla, the 23rd September 1909.

From

THE MILITARY SECRETARY TO THE VICEROY,

To

THE MILITARY SECRETARY TO THE GOVERNOR OF MADRAS.

MEMORANDUM.

To prevent confusion on the platform of the Railway Station on the occasion of His Excellency the Viceroy's arrival, the following general rules, which have been found to work satisfactorily on previous occasions, should be observed:—

1. The arrangement that the Viceroy finds most convenient is that Their Excellencies should be received after alighting on the platform by the Chief Civil Officer and the Chief Military Officer.

2. The two Chief Civil Officers then conduct Their Excellencies past the Civil Officers, introducing them in turn, the Chief Military Officer and his Chief Staff Officer then doing the same for the Military Officers to be presented. Any Native Princes or gentlemen of sufficient importance should be placed in due order in the most convenient position, and should also be introduced by the Chief Civil Officers.

3. To prevent crowding, any European ladies and gentlemen, other than those mentioned above, and any Native gentlemen attending at the Railway Station, whom it is not necessary to present, should be in a marked off enclosure in rear, or to one side of the officers to be presented.

4. His Excellency the Viceroy, after the presentations are over, will inspect the guard-of-honour on the platform accompanied by the Chief Military Officer and His Excellency's personal Staff, returning to the centre of the platform, where Her Excellency joins him.

5. If an address is to be presented at the station, His Excellency then moves forward to receive and reply to it, a place being reserved for Her Excellency by the Viceroy's side.

6. As many of the leading members of the body presenting the address as may be considered necessary should be presented by the proper Civil Officer, Commissioner, or Collector, to the Viceroy after His Excellency's reply. Their Excellencies then leave the station.

HIS EXCELLENCY THE VICEROY'S AUTUMN TOUR, 1909.

LIST OF PARTY.

1. His Excellency the Viceroy.
2. Her Excellency the Countess of Minto.
3. Lady Eileen Elliot.
4. Lady Antrim.
5. Lady A. Carrington.*
6. Miss Howard.*
7. Mr. S. H. Butler, C.S.I., C.I.E., Foreign Secretary.
8. Lieutenant-Colonel J. R. Dunlop Smith, C.S.I., C.I.E., Private Secretary.
9. Lieutenant-Colonel Victor Brooke, D.S.O., Military Secretary.
10. Surgeon Lieutenant-Colonel W. R. Crooke-Lawless, M.D., C.I.E.
11. Captain Lord Francis Scott, A.-D.-C.
12. Captain R. G. Jelf, A.-D.-C.
13. Captain J. E. Gibbs, A.-D.-C.

OFFICE ESTABLISHMENT.

Mr. R. Parsons, Personal Assistant to the Military Secretary to the Viceroy.

Foreign Office	Two European Assistants (Messrs. Hughes and Heron). One Hindu Assistant.
Private Secretary's office ...	One European Assistant (Mr. H. Freitas). Two Hindu Assistants.
Military Secretary's Office ...	One Hindu Assistant. One Muhammadan Transport Superintendent. One Hindu Household Clerk.

DISPENSARY.

One Muhammadan Hospital Assistant.

CAMP POST OFFICE.

One Muhammadan Postmaster.

HOUSEHOLD.

Four European Maids.†
120 Native servants. (Includes 1 Madrassi Valet and 3 Madrassi Ayahs.)

SIMLA,
The 20th September 1909.

J. MACKENZIE, Captain,
Offg. Military Secretary to the Viceroy.

* As far as Gwalior only.
† Three from Gwalior onwards.

Programme of His Excellency the Viceroy's Autumn Tour, 1909.

October.			
Monday, 25th	9-0 A.M.	Leave Simla	Private departure.
	12-0 P.M.	Arrive Solon	Lunch.
	12-30 P.M.	Leave ,,	
	4-0 P.M.	Arrive Kalka	
	4-15 P.M.	Leave ,,	By State train.
	5-36 P.M.	Arrive Amballa	Afternoon tea.
	5-51 P.M.	Leave ,,	
	7-42 P.M.	Arrive Panipat	Dinner.
	8-15 P.M.	Leave ,,	
	10-0 P.M.	Arrive Delhi	Change to Metre Gauge.
	11-30 P.M.	Leave ,,	
Tuesday, 26th	7-0 A.M.	Arrive Khairthal	Early tea.
	7-15 A.M.	Leave ,,	
	8-30 A.M.	Arrive Alwar	Public arrival.
Wednesday, 27th	10-30 P.M.	Leave ,,	Private departure.
Thursday, 28th	7-0 A.M.	Arrive Kanauta	Early tea.
	7-15 A.M.	Leave ,,	
	8-30 A.M.	Arrive Jaipur	Public arrival.
Friday, 29th	Halt.		
Saturday, 30th	Visit Tonk.		
	10-30 P.M.	Leave Jaipur	Private departure.
Sunday, 31st	6-50 A.M.	Arrive Mandal	Early tea.
	7-5 A.M.	Leave ,,	
	8-47 A.M.	Arrive Chanderia	Breakfast.
	9-17 A.M.	Leave ,,	
	9-30 A.M.	Arrive Chitor	Private arrival.
	1-0 P.M.	Leave ,,	Private departure.
	2-4 P.M.	Arrive Kapasin	Lunch.
	2-34 P.M.	Leave ,,	
	4-40 P.M.	Arrive Udaipur	Private arrival.
November.			
Monday, 1st	Halt.		
Tuesday, 2nd	Halt.		
Wednesday, 3rd	Halt.		
Thursday, 4th	Halt.		
	10-30 P.M.	Leave Udaipur	Private departure.
Friday, 5th	6-50 A.M.	Arrive Rupaheli	Early tea.
	7-5 A.M.	Leave ,,	
	8-45 A.M.	Arrive Nasirabad	Breakfast.
	9-15 A.M.	Leave ,,	
	10-0 A.M.	Arrive Ajmer	Public arrival.
	7-25 P.M.	Leave ,,	Private departure.
	8-0 P.M.	Arrive Kishengarh	Dinner.
	9-0 P.M.	Leave ,,	

November.

Saturday, 6th	6-55 A.M.	Arrive Bharatpur	Early tea.
	7-10 A.M.	Leave ,,	
	9-0 A.M.	Arrive Agra	Breakfast and change to Broad Gauge.
	10-30 A.M.	Leave ,,	
	1-25 P.M.	Arrive Morar Road	Lunch.
	1-55 P.M.	Leave ,,	
	2-0 P.M.	Arrive Gwalior	Public arrival.
Sunday, 7th Monday, 8th Tuesday, 9th	Halt.		
	10-30 P.M.	Leave Gwalior	Private departure.
Wednesday, 10th	7-12 A.M.	Arrive Dewanganj	Early tea.
	7-45 A.M.	Leave ,,	
	8-30 A.M.	Arrive Bhopal	Public arrival.
Thursday, 11th Friday, 12th	Halt.		
	6-0 P.M.	Leave Bhopal	Private departure.
	7-55 P.M.	Arrive Shujaulpur	Dinner.
	8-55 P.M.	Leave ,,	
Saturday, 13th	7-10 A.M.	Arrive Dakor	Early tea.
	7-25 A.M.	Leave ,,	
	9-10 A.M.	Arrive Barejadi	Breakfast.
	9-40 A.M.	Leave ,,	
	10-0 A.M.	Arrive Ahmedabad	Private arrival.
	2-45 P.M.	Leave ,,	Private departure. (Lunch on train.)
	5-0 P.M.	Arrive Baroda	Public arrival.
Sunday, 14th Monday, 15th Tuesday, 16th	Halt.		
	10-30 P.M.	Leave Baroda	Private departure.
Wednesday, 17th	5-50 A.M.	Arrive Bhayndar	Early tea.
	7-30 A.M.	Leave ,,	
	8-30 A.M.	Arrive Bombay	Public arrival.
Thursday, 18th Friday, 19th Saturday, 20th	Halt.		
	10-0 P.M.	Leave Bombay	Private departure.
Sunday, 21st	7-21 A.M.	Arrive Barsi Road	Early tea.
	7-36 A.M.	Leave ,,	
	9-35 A.M.	Arrive Hotgi	Breakfast and change to Metre Gauge.

1st Train.		2nd Train*.		
10-5 A.M.	Leave Hotgi	10-40 A.M.	Leave Hotgi.	
12-47 P.M.	Arrive Bijapur.	1-25 P.M.	Arrive Bijapur.	Private arrival.
5-30 P.M.	Leave ,,	6-0 P.M.	Leave ,,	Private departure.
7-25 P.M.	Arrive Alimati.	7-24 P.M.	Arrive Telgi.	Dinner.
8-15 P.M.	Leave ,,	8-22 P.M.	Leave ,,	

* Their Excellencies the Viceroy and Countess of Minto will travel on the 2nd train from Hotgi to Bangalore.

November.					
Monday, 22nd	7-2 A.M.	Arrive Dudh Sagur	6-52 A.M.	Arrive Castle Rock	Early tea.
	7-17 A.M.	Leave ,,	7-7 A.M.	Leave ,, ,,	
	8-56 A.M.	Arrive Margao	8-36 A.M.	Arrive Collem	Breakfast.
	9-25 A.M.	Leave ,,	9-6 A.M.	Leave ,,	
	10-15 A.M.	Arrive Mormugao	10-50 A.M.	Arrive Mormugao	Public arrival.
	5-30 P.M.	Leave ,,	6-0 P.M.	Leave ,,	Private departure.
	8-15 P.M.	Arrived Dudh Sagur	7-58 P.M.	Arrive Collem	Dinner.
	9-10 P.M.	Leave ,,	8-58 P.M.	Leave ,,	
Tuesday, 23rd	7-7 A.M.	Arrive Kodaganur	6-41 A.M.	Arrive Harihar	Early tea.
	7-22 A.M.	Leave ,,	7-0 A.M.	Leave ,,	
	9-20 A.M.	Arrive Shivani	9-3 A.M.	Arrive Holalkere	Breakfast.
	9-50 A.M.	Leave ,,	9-33 A.M.	Leave ,,	
			1-5 P.M.	Arrive Benkipura	Lunch.
			1-35 P.M.	Leave ,,	
	1-0 P.M.	Arrive Shimoga	2-10 P.M.	Arrive Shimoga.	
	2-30 P.M.	Leave Shimoga		By Motor, 65 miles.	
	5-0 P.M.	Arrive Sagur		Afternoon tea.	
	7-30 P.M.	Arrive Gaersoppa			
Wednesday, 24th	2-45 P.M.	Leave Gaersoppa			
	6-0 P.M.	Arrive Anantapur	Afternoon tea.		
	6-45 P.M.	Arrive Shimoga			

	1st Train.		2nd Train.		
	7-25 P.M.	Leave Shimoga	8-0 P.M.	Leave Shimoga	(Dinner on train.)
Thursday, 25th	7-3 A.M.	Arrive Hanakere	6-59 A.M.	Arrive Settihalli	Early tea.
	7-18 A.M.	Leave ,,	7-14 A.M.	Leave ,,	
	8-43 A.M.	Arrive Paschamvahini	9-15 A.M.	Arrive French Rocks	Breakfast.
	9-18 A.M.	Leave ,,	9-45 A.M.	Leave ,, ,,	
	9-45 A.M.	Arrive Mysore	10-30 A.M.	Arrive Mysore	Public arrival.
Friday, 26th	Halt.				
Saturday, 27th	Halt.				
Sunday, 28th	4-0 P.M.	Leave for Keddah Camp		By Motor, 50 miles.	
Monday, 29th	Keddah Camp.				
Tuesday, 30th	Keddah Camp.				
December.					
Wednesday, 1st	Keddah Camp.				
Thursday, 2nd	4-0 P.M.	Return to Mysore			

	1st Train.		2nd Train.		
Friday, 3rd	9-0 A.M.	Leave Mysore	9-30 A.M.	Leave Mysore	Private departure
	9-34 A.M.	Arrive Seringapatam	10-4 A.M.	Arrive Seringapatam.	
	11-25 A.M.	Leave ,,	12-4 P.M.	Leave ,,	
	1-46 P.M.	Arrive Chennapatna.	1-42 P.M.	Arrive Maddur	Lunch.
	2-16 P.M.	Leave ,,	2-17 P.M.	Leave ,,	
	4-20 P.M.	Arrive Bangalore	5-0 P.M.	Arrive Bangalore	Public arrival.

December.			
Saturday, 4th	8 A.M.	Leave Bangalore	By Motor, 65 miles.
	10-30 A.M.	Arrive Marikuppma	Public arrival.
	4-0 P.M.	Leave Kolar	By special train from Oorgaum Station. Private departure.
	4-23 P.M.	Arrive Bowringpet	
	4-30 P.M.	Leave "	
	6-20 P.M.	Arrive Bangalore City	
Sunday, 5th	Halt.		
Monday, 6th	12-30 P.M.	Leave Bangalore	Private departure.
	2-13 P.M.	Arrive Bowringpet	Lunch.
	2-45 P.M.	Leave "	
	5-5 P.M.	Arrive Samalpatti	Afternoon tea.
	5-20 P.M.	Leave "	
	8-15 P.M.	Arrive Erode	Dinner and change to Metre Gauge.
	9-30 P.M.	Leave "	
Tuesday, 7th	6-55 A.M.	Arrive Kodaikánal Road	Early tea.
	7-10 A.M.	Leave "	
	8-15 A.M.	Arrive Madura	Private arrival.
	3-40 P.M.	Leave "	Private departure.
	4-39 P.M.	Arrive Kodaikánal Road	Afternoon tea.
	4-47 P.M.	Leave "	
	7-50 P.M.	Arrive Trichinopoly	Private arrival. Dine on train.
Wednesday, 8th	1-45 P.M.	Leave "	Private departure.
	2-5 P.M.	Arrive Teruverumbur	Lunch.
	2-35 P.M.	Leave "	
	3-35 P.M.	Arrive Tanjore	Private arrival.
	6-30 P.M.	Leave "	Private departure.
	8-5 P.M.	Arrive Tirunageswaram	Dinner.
	9-5 P.M.	Leave "	
Thursday, 9th	6-45 A.M.	Arrive Chingleput	Early tea.
	7-0 A.M.	Leave "	
	8-30 A.M.	Arrive Madras	Public arrival.
Friday, 10th; Saturday, 11th; Sunday, 12th; Monday, 13th	Halt.		
	10-30 P.M.	Leave Madras	Private departure.
Tuesday, 14th	7-5 A.M.	Arrive Bápatla	Early tea.
	7-20 A.M.	Leave "	
	9-5 A.M.	Arrive Bezwada	Breakfast.
	9-35 A.M.	Leave "	
	2-15 P.M.	Arrive Samalkot	Lunch.
	2-45 P.M.	Leave "	
	4-52 P.M.	Arrive Yellamanchilli	Afternoon tea.
	5-10 P.M.	Leave "	
	7-44 P.M.	Arrive Vizianagram	Dinner.
	8-44 P.M.	Leave "	

December.			
Wednesday, 15th	7-10 A.M.	Arrive Jenapur	Early tea.
	7-25 A.M.	Leave ,,	
	8-55 A.M.	Arrive Bhadrak	Breakfast.
	9-25 A.M.	Leave ,,	
	2-0 P.M.	Arrive Haur	Lunch.
	2-35 P.M.	Leave ,,	
	4-30 P.M.	Arrive Howrah	Private arrival.
Thursday, 16th	3-0 P.M.	Leave Sealdah	Private departure.
	4-20 P.M.	Arrive Bogoola	Afternoon tea.
	4-30 P.M.	Leave ,,	
	6-10 P.M.	Arrive Damukdia Ghat	
	6-40 P.M.	Leave ,,	By Steamer.
	7-6 P.M.	Arrive Sara Ghat	Dinner.
	9-0 P.M.	Leave ,,	
Friday, 17th	7-0 A.M.	Arrive Siliguri	Early tea and breakfast.
	8-36 A.M.	Leave ,,	
	1-52 P.M.	Arrive Darjeeling	Private arrival.
Saturday, 18th	Halt.		
Sunday, 19th			
Monday, 20th	2-30 P.M.	Leave Darjeeling	Private departure.
	4-30 P.M.	Arrive Kurseong	Afternoon tea.
	4-55 P.M.	Leave ,,	
	8-0 P.M.	Arrive Siliguri	Dinner.
	9-0 P.M.	Leave ,,	
Tuesday, 21st	6-33 A.M.	Arrive Nattore	Early tea.
	6-53 A.M.	Leave ,,	
	8-6 A.M.	Arrive Sara Ghat	
	8-26 A.M.	Leave ,,	By Steamer.
	8-56 A.M.	Arrive Damukdia Ghat	Breakfast.
	9-26 A.M.	Leave ,,	
	1-0 P.M.	Arrive Sealdah	Private arrival.

SIMLA,
The 18*th September* 1909.

J. MACKENZIE, Captain,
Offg. Military Secretary to the Viceroy.

Government of Madras.

POLITICAL DEPARTMENT.

Recd.	1909.	*Enclosures*
Regd.		*Spare copies*

G.O., No. 550, 22nd November 1909.

His Excellency the Viceroy's visit to Madras.

Communicating to the officers concerned the programme of —.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

READ—the following paper :—

PROGRAMME OF HIS EXCELLENCY THE VICEROY'S VISIT TO MADRAS.

DECEMBER 1909.

***Thursday*, 9*th*—**

8–30 A.M. Arrive Madras, Egmore Station.
8–45 A.M. Public arrival in Banqueting Hall, Government House.
9–15 A.M. Breakfast.
10–30 A.M. Receive addresses in the Banqueting Hall from—
The Mahajana Sabha.
The Anglo-Indian Association.
The Anjuman and the Madras Muslim League.
The Chamber of Commerce.
The Landholders' Association.
The Catholic Indian Association of South India.
The Indian Christian Association.
The Madras Provincial Congress Committee.
4–30 P.M. Visit Fort and Harbour, and drive through Georgetown.
9–45 P.M. Reception.

***Friday*, 10*th*—**

7–30 A.M. Presentation of Colours to the Dorsetshire Regiment at Government House, Madras.
11 A.M. *Her Excellency visits the Gosha Hospital and the General Hospital.*
11–30 A.M. Receive visit from His Highness the Maharaja of Travancore, G.C.S.I., G.C.I.E.
11–45 A.M. Receive visit from His Highness the Raja of Cochin, G.C.S.I.
12 NOON. Receive visits (informally) from—
1. Maharaja Sri Rao Sir Venkatasvetachalapati Ranga Rao Bahadur, K.C.I.E., Raja of Bobbili.
2. Maharaja Sri Vikrama Deo of Jeypore.
3. The Raja of Venkatagiri, K.C.I.E.
4. M.R.Ry. Raja Venganad Vasudeva Raja Avargal, Valia Nambidi of Kollengode.
5. The Raja of Vizianagram.
6. Raja V. Virabhadra Razu Bahadur, Zamindar of Kurupam.
7. The Raja of Pithápuram.

4–30 P.M. *Her Excellency visits the Victoria Technical Institute.*
4–30 P.M. Return the visit of His Highness the Maharaja of Travancore, G.C.S.I., G.C.I.E.
5 P.M. Return the visit of His Highness the Raja of Cochin, G.C.S.I.
8 P.M. Banquet.

Saturday, 11*th*—

7–45 A.M.	Lay foundation stone of Municipal buildings, and receive Municipal address.
11 A.M.	*Her Excellency receives visits from Native ladies.*
4–45 P.M.	Entertainment at the Cosmopolitan Club.
6 P.M.	Leave for Guindy.

Sunday, 12*th*—Halt at Guindy.

Monday, 13*th*—

7–30 A.M.	Visit King Institute and St. Thomas' Mount.
5–6 P.M.	Garden Party at the Prince of Arcot's residence (Ameer Mahal).
8–15 P.M.	Dine at Madras.
10–30 P.M.	Private departure.

GUINDY,
The 18th November 1909.

A. A. DUFF, Major,
Mily. Secy. to His Excellency the Governor.

Order—No. 550, Political, dated 22nd November 1909.

Copy of the programme of His Excellency the Viceroy's visit to Madras is communicated to the Colonel Commanding Madras Brigade, to the Inspector-General of Police, to the Commissioner of Police and to the Deputy Inspector-General of Police for Criminal Intelligence and Railways for information and such action as may be necessary.

(True Extract.)

W. S. MEYER,
Chief Secretary.

To the Colonel Commanding Madras Brigade.
,, Inspector-General of Police.
,, Commissioner of Police.
,, Deputy Inspector-General of Police for Criminal Intelligence and Railways.

Copy to the Acting Adjutant-General, 9th (Secunderabad) Division.
,, Departments of Secretariat (except Pension and Legislative).

Government of Madras.

POLITICAL DEPARTMENT.

Recd.	} 1909.		*Enclosures*
Regd.			*Spare copies*

G.O., No. 559, 29th November 1909.

Travancore Arms Regulation.

Informing the Resident in Travancore and Cochin that the Government have no objection to the draft notification which the Travancore Darbar propose to issue under section 32 of the —.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Read—the following paper :—

Letter—from R. C. C. Carr, Esq., I.C.S., Resident in Travancore and Cochin.
To—the Chief Secretary to Government.
Dated—Trivandrum, the 3rd November 1909.
No.—Ref. on C. 1392 of 1909.

In continuation of my letter No. 1392, dated 28th September 1909, I have the honour to submit a copy of the notification which the Travancore Darbar proposes to issue under section 23 of the Travancore Arms Regulation No. V of 1084. It will be remembered that the said regulation was approved in G.O., No. 256, Political, dated 1st June 1909, in paragraph 2 of which the Government said that it would be glad to be furnished with copies of draft rules which the Darbar might propose to issue.

2. Schedule 1 of the notification of the Government of India published on page 890, part I of the *Fort St. George Gazette* of the 7th September 1909, will be reproduced *en bloc* in the Travancore notification. The other exemptions follow the lines adopted in British India. Paragraph 8 of the notification exempts all persons who pay an assessment of not less than Rs. 100 per annum, while all hilly tracts are exempted. The Darbar is anxious to be lenient in dealing with a privilege which has hitherto been uncontrolled and I think that its policy in this respect is justified. Travancore is a country of small holdings and the number of land-holders paying not less than a hundred rupees per annum and not included in the various other classes of persons exempted will be very small. The object of exempting hilly tracts is to guard against interference with the hill tribes and other residents in the hills who have frequently to carry a gun for self-protection.

Enclosure.

DRAFT NOTIFICATION.

Under section 23 of the Arms Regulation V of 1084, it is hereby notified that the following persons and places are exempted from the operation of sections 9 and 10 of the Regulation, except in regard to cannon, all articles designed for torpedo service, sub-marine mining, war-rockets rifles of ·303 bore or rifles of ·450 bore, balled ammunition which can be fired from rifles of the bores and pattern aforesaid, dynamite and machinery for the manufacture of arms and ammunition.

Persons:

1. All persons who are exempted by the British Government, under the Indian Arms Act, XI of 1878, as per schedule I.

2. The whole of the Nayar Brigade in regard to arms supplied by Government.

3. The entire staff of the Police, Excise, Forest, Jail, Cardamom, Anchel, Medical and other departments in regard to arms supplied for their use by Government.

4. All officers of Government, whose pay or pension is not less than Rs. 100 per mensem.

5. All persons who are or have been members of—

(i) the Legislative Council,
(ii) the Sri Mulam Popular Assembly,
(iii) the Trivandrum, Nagercoil, Quilon, Alleppey and Kottayam Town Improvement Committees.

6. The heads and other members of the following families :—

(1) Kilimanoor Kottaram, Chirayinkil taluk.
(2) Alangad Swaroopam, Alangad taluk.
(3) Karthigapalli Koikkal, Karthigapalli taluk.
(4) Ananthapurathu Kottaram, Karthigapalli taluk.
(5) Chempro Kottaram, Karthigapalli taluk.
(6) Mavelikara Kottaram, Mavelikara taluk.
(7) Prayikkara Kottaram, Mavelikara taluk.
(8) Cherukole Kottaram, do.
(9) Karama Kottaram, do.
(10) Panthalathu Koikkal, Mavelikara and Chengannoor taluks.
(11) Ennakkad Kottaram, Chengannoor taluk.
(12) Vadakkay Matom Kottaram, do.
(13) Gramathu Kottaram, do.
(14) Vanjipuzha Matom, do.
(15) Karipapanangadu Kovilagom, do.
(16) Palikkara Kottaram, Thiruvellala taluk.
(17) Nedumprathu Koikkal, do.
(18) Aranmula Kottaram, do.
(19) Lekshmipuram Kottaram, Changanaseri taluk.
(20) Mariapalli Kottaram, Kottayam taluk.
(21) Thekkumkoor Koikkal do.
(22) Pallathu Kottaram do.
(23) Vadakkumkoor Koikkal, Vaikom and Meenachil taluks.
(24) Poonjat Koikkal, Meenachil taluk.
(25) Edapalli Swaroopam, Kunnathunad taluk.
(26) Parur Koikkal, Parur taluk.
(27) Nagercoil Amma Veedu.
(28) Arumanai Amma Veedu.
(29) Thiruvattar Amma Veedu.
(30) Vadaserri Amma Veedu.
(31) Pulimutu Amma Veedu.
(32) Kallampilli Amma Veedu.

7. All persons who are exempted from attendance in Civil Courts.

8. All persons who pay an assessment of not less than Rs. 100 per annum to Government.

PLACES.

Hilly Tracts as specified in article 490 of the Civil Service Regulations.

Order—No. 559, Political, dated 29th November 1909.

The Government have no objection to the draft notification which the Travancore Darbar propose to issue under section 23 of the Travancore Arms Regulation.

2. It may be pointed out to the Darbar that the words "of the Indian Arms Rules, 1909" might be inserted after the words "Schedule I" in rule 1 of the draft notification to make the intention clear; and that the words "and pattern" after "bores" in the preamble should apparently be omitted, no "pattern" having been previously mentioned.

(True Extract.)

W. S. MEYER,
Chief Secretary.

To the Resident in Travancore and Cochin.

NOTES TO G.O., No. 559, POLITICAL, DATED 29TH NOVEMBER 1909.

[SUBJECT.—*Travancore Arms Regulation.*]

Previous papers.

G.O.,	256,	*Political*,	*1st June*	1909.
"	476	"	*4th October*	"

From the Resident in Travancore and Cochin, No. R.O.C. 1392, dated 3rd November 1909.

Page 2 of G.O., 256, Political, 1st June 1909.

With his letter No. R.O.C. 616, dated the 13th May 1909, the Resident in Travancore and Cochin submitted, for the approval of Government, a draft of a regulation for the control of the possession of arms and ammunition in the Travancore State. Government in their Order No. 256, Political, dated the 1st June 1909, said that there was no objection to the draft regulation being passed into law subject to certain conditions, and that they would be glad to be furnished with copies of any drafts of rules under the regulation which the Darbar may propose to issue. The Resident now submits copy of the notification which the Darbar proposes to issue under section 23 of the Travancore Arms Regulation No. V of 1084. The Judicial department may be asked whether the notification calls for any remarks.

In G.O., 476, Political, 4th October 1909.

P. DE R.—13-11-09.

H. W.—15-11-09.

A. GALLETTI—15-11-09.

JUDICIAL DEPARTMENT.

Submitted for orders.

G.O., 256, Political, 1st June 1909.

2. The Travancore Arms Regulation was approved on the understanding that volunteers enrolled under the Indian Volunteers Act, 1869, and all other persons who are exempt in British India from the Arms Rules, are exempted from the operation of those provisions of the regulation which relate to the possession of arms and ammunition.

(Schedule 1, clause (3), page 890 of the *Fort St. George Gazette*, 7th September 1909).

It is not all volunteers who are exempt in British India from the Indian Arms Rules. The exemption applies only to ENROLLED volunteers as opposed to HONORARY volunteers. The expression "all persons who are exempted by the British Government under the Indian Arms Act, XI of 1878" occurring in rule 1 of the proposed notification, includes enrolled volunteers and so no specific provision has in this respect been made in the notification. Rule 1 of the proposed notification carries on therefore the wishes of Government in G.O., No. 256, dated 1st June 1909.

C.A.S.—17-11-09.

3. The words "of the Indian Arms Rules, 1909" may be inserted after the words "Schedule I" in rule 1 of the proposed notification to make the intention clear.

This is for Travancore to decide and needs no comment.

C.A.S.—17-11-09.

(Pages 890—894 of the *Fort St. George Gazette*, 7th September 1909).

4. Under rule 4 of the proposed notification, "all officers of "(Travancore) Government whose pay or pension is not less than "Rs. 100 per mensem" are exempt from the Arms Regulation. The reasons for this concession are not given. Probably they are the same as in the case of landholders (*vide* next paragraph). The Indian Arms Rules, 1909, contain no similar provision with regard to Government employees in British India.

5. Rule 8 exempts "all persons who pay an assessment of not less than Rs. 100 per annum to Government" from the regulation. The reason for this concession is that "the Darbar is anxious "to be lenient in dealing with a privilege which has hitherto been "uncontrolled" and the Resident thinks that the Darbar's policy in this respect "is justified". It is reported that the number of landholders paying not less than Rs. 100 per annum and not included in the various other classes of persons exempted will be very small. The corresponding rule in British India is—"Every "landholder . . . . being of approved loyalty and good

(Schedule 1, clause 15 on page 892 of the Gazette).

"position and designated in any list issued in this behalf by the "local Government". No lists in this regard have been issued by Government and the exemptions of landholders in this Presidency are sanctioned on the recommendations of District Magistrates (*vide* a case in G.O., No. 384, Judicial, dated 26th February 1907).

(Last sentence of the Resident's letter.)

6. Under the proposed notification, the Arms regulation does not apply to "hilly tracts". The object of this exemption is "to "guard against interference with the hill tribes and other residents "in the hills who have frequently to carry a gun for self-"protection".

Schedule IV, clause 4 (1) on page 895 of the Gazette in the file.

There is no similar provision in the Indian Arms Rules, 1909. The only tracts in the Presidency where the Arms Rules are not in force are "the scheduled districts."

N.A.R.—16-11-09.

Submitted that Judicial department may accept the draft notification with the small alteration mentioned in paragraph 3.

J.A.DE R.—16-11-09.

Yes.

C. A. SOUTER—17-11-09.

POLITICAL DEPARTMENT.

Draft order stating that the Government have no objection to the draft notification is submitted.

The Cochin Arms regulation was approved in G.O., No. 332, Political, dated 11th July 1908, and the Banganapalle Arms regulation in letter No. 190, Political, dated 24th April 1907. Pudukkóttai has a regulation (No. III of 1892) regarding the possession and use of arms.

H.W.—25-11-09.

Chief Secretary—

It was suggested to the Travancore Darbar that they should pass a regulation requiring licenses to be taken out for the possession of arms in paragraph 3 of Government's review of the Administration report for 1900–1901.

Vide paragraph 1, K.W. 1070, Judicial, of 1907.

2. At the end of 1906 the Resident was asked u.o. to take the matter up and after his report had been considered by the Judicial department (G.O., No. 1070, Judicial, of 1907) he was asked in this department to report what action the Travancore Darbar had taken on the suggestion (made some years before) that a regulation should be passed for the control of the possession of arms and ammunition (page 2 of G.O., No. 256, Political, of 1909). The Darbar then submitted a regulation, which was approved in June 1909. In the other Native States under this Government the matter was already regulated by law, except in Sandur; regarding which last State I do not think the question has been raised.

Vide Schedule IV of Rules under the Arms Act in Gazette volume.

3. The current merely contains a list of exemptions from the operation of certain provisions of the Regulation. The important part seems to be the last words exempting "hilly tracts". Most of the area of Travancore is "hilly tracts", but the population of those tracts must be small. Similar tracts in British India are excluded from the operation of most provisions of our Arms Act; among them all the scheduled districts in the Madras Presidency, that is, hill tracts with a sparse population of men and a large one of wild animals, in which weapons are needed by every man for protection. The rules may be approved; a draft Government Order is submitted.

A.G.—25-11-09.

The exemptions go beyond our rule, but we need not object to them for the reasons stated in paragraph 2 of the Resident's letter. Draft may issue.

W. S. MEYER—27-11-09.

[G.O., No. 559, Political, dated 29th November 1909.]